

**ACT 140**

H.B. NO. 2884

A Bill for an Act Relating to the Compensation of Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriation contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1989-1990 to be exceeded by \$93,779 or 0.0040 per cent and for fiscal year 1990-1991 to be exceeded by \$86,093 or 0.0034 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriation made in this Act is necessary to serve the public interest and to meet the need provided for by this Act.

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SECTION 2. Section 84-35, Hawaii Revised Statutes, is amended to read as follows:

“**§84-35 Staff.** The ethics commission may employ and at pleasure remove such persons, including an executive director, as it may deem necessary for the performance of its functions. Effective [January 1, 1989, and] January 1, 1990, and January 1, 1991, the salary of the executive director shall be [\$50,528 and] \$52,802 and \$59,048 a year, respectively. The commission shall fix the compensations of other employees within the amounts made available by appropriation therefor. The employees of the commission shall be exempt from chapters 76 and 77.”

SECTION 3. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a Hawaii labor relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairperson, shall be representative of the public. All members shall be appointed by the governor for terms of six years each. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until the member’s successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. Effective January 1, 1989, and January 1, 1990, the salary of the chairperson of the board shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively, and the salary of each of the other members shall be [\$62,854 and \$65,683, a year respectively.] ninety-five per cent of the chairperson’s salary. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during the member’s term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during the acting member’s term of service, shall have the same powers and duties as the regular member.

The chairperson of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. [The provisions of section] Section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft

legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76, 77, and 89. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies.”

SECTION 4. Section 201E-3, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The corporation shall employ, not subject to chapters 76 and 77 and section 26-35(4), an executive director. Effective [July 1, 1988,] January 1, 1989, and January 1, 1990, the salary of the executive director shall be [~~\$61,560 a year.~~] set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively. The corporation may employ, subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent and temporary, as required. The corporation may also employ persons on a contractual basis not subject to chapters 76, 77, and 78 when in the determination of the corporation the services to be performed are unique and essential to the execution of the functions of the corporation; provided that no individual contract shall be for a period longer than two years per term. The corporation may call upon the attorney general for such legal services as it may require, or it may employ its own counsel and legal staff. The corporation may delegate to one or more of its agents or employees such powers and duties as it deems proper.”

SECTION 5. Section 269-2, Hawaii Revised Statutes, is amended to read as follows:

**“§269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; persons having interest in public utilities. (a)** There shall be a public utilities commission of three members, to be called commissioners, and who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. The governor shall designate a member to be chairperson of the commission. Each member shall hold office until the member’s successor is appointed and qualified. Section 26-34 shall not [be applicable] apply insofar as it relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other similar fields. The commissioners shall devote full time to their duties as members of the commission and no commissioner shall hold any other public office or other employment during the commissioner’s term of office. No person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner.

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(b) Effective January 1, 1989, and January 1, 1990, the chairperson of the commission shall be paid a salary set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively, and each of the other commissioners shall be paid a salary [of \$62,854 and \$65,683 a year, respectively.] equal to ninety-five per cent of the chairperson's salary. The commissioners shall be exempt from chapters 76, 77, and 89 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87.

The commission is placed within the department of budget and finance for administrative purposes."

SECTION 6. Section 363-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The head of the office shall be known as the director of the office of veterans' services. The director shall be nominated and appointed by the governor without regard to chapters 76, 77, and 89. Effective July 1, [1988,] 1990, the salary of the director shall be [\$40,000 annually.] \$59,048 a year. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 7. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a labor and industrial relations appeals board composed of three members nominated and, by and with the advice and consent of the senate, appointed by the governor for terms of ten years each, except that the terms of members first appointed shall be for six, eight, and ten years respectively as designated by the governor at the time of appointments. The governor shall designate the chairperson of the board who shall be an attorney at law licensed to practice in all of the courts of this State. Each member shall hold office until the member's successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated. The members shall devote full time to their duties as members of the board. Effective January 1, 1989, and January 1, 1990, the salary of the chairperson of the board shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively, and the salary of each of the other members shall be [\$62,854 and \$65,683 a year, respectively.] ninety-five per cent of the chairperson's salary."

SECTION 8. There is appropriated from the general revenues of the State of Hawaii the sum of \$93,779, or so much thereof as may be necessary, for fiscal year 1989-90 and \$86,093 for fiscal year 1990-91, to provide the salary increases provided in this Act. The sums appropriated shall be expended by the department of budget and finance.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 1990.

(Approved June 15, 1990.)

**Note**

1. So in original.