
A BILL FOR AN ACT

RELATING TO SUBSTITUTE TEACHERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2005, the legislature enacted Act 70,
2 Session Laws of Hawaii 2005 (Act 70), which required the
3 department of education to develop a classification and
4 compensation schedule for public school substitute teachers.
5 Act 70 was prompted by years of litigation in which substitute
6 teachers claimed they were not being paid the specified rate
7 determined by the legislature in 1996. The legislature provided
8 temporary relief to substitute teachers, by specifying payment
9 of more than the disputed \$112.53 per day they were being paid
10 in 2005 by the department, and required the department to
11 recommend a classification and compensation schedule to the 2006
12 legislature.

13 Pursuant to Act 70, the department of education created a
14 substitute teacher task force (task force), which included
15 representatives from the Hawaii State Teachers Association,
16 Hawaii Government Employees Association, the department of
17 education's office of human resources, substitute teachers, and
18 parents. The task force recognized the important role that



1 substitute teachers play in providing quality education to
2 students when regular classroom teachers are absent or unable to
3 perform their duties.

4 On any given day, about one thousand substitute teachers
5 are employed by the department of education to carry out the
6 duties of Hawaii's ten thousand regular, full-time teachers. In
7 the task force's final report entitled "A Report to the
8 Legislature on the Department of Education's Response to Act
9 70," it was noted that there were approximately four thousand
10 five hundred sixty-eight substitute teachers employed by the
11 department of education during school year 2004-2005. The
12 significant role of public school substitute teachers cannot be
13 underestimated.

14 The department of education recommended that salary
15 increases for substitute teachers should be across-the-board,
16 regardless of class, and reflect current negotiated rates by
17 various bargaining units. To be consistent with the 1996 law,
18 which established the salary schedules for regular, full-time
19 teachers, the legislature believes that rate increases for
20 substitute teachers should be based on rate increases for
21 licensed class II teachers as determined through collective
22 bargaining.



1 On December 16, 2005, in *Garner v. DOE* (Civil No.
2 03-1-000305) and *Klitternick v. Hamamoto* (Civil No.
3 05-1-0031-01), Judge Karen Ahn ruled that under section
4 302A-624(e), Hawaii Revised Statutes, as enacted in 1996, the
5 department of education failed to pay substitute teachers a per
6 diem salary based on the annual step salary rate established for
7 a licensed class II teacher established by bargaining unit 5.
8 As of June 30, 2005, that rate was \$146.09 per day.

9 In light of Judge Ahn's ruling, the legislature
10 acknowledges that Act 70 was intended to establish a temporary
11 solution of providing adequate compensation to substitute
12 teachers.

13 The legislature finds that it is now time to finally lay
14 this matter to rest. Years of litigation between Hawaii's
15 substitute teachers and the department of education has created
16 significant strain between substitute teachers and the
17 department of education, resulting in declining substitute
18 teacher morale, distrust between substitute teachers and the
19 department, and voluntary attrition of substitute teachers,
20 ultimately adversely affecting the quality and availability of
21 substitute teachers serving the department of education.



1 The legislature further finds that this Act is essential to
2 finally resolve the costly and harmful litigation between the
3 two parties and to create a clean slate between the substitute
4 teachers and the department of education to provide the highest
5 quality teaching and work environment for Hawaii's substitute
6 teachers and students.

7 The legislature also finds that this Act is consistent with
8 the department of education's recommendation that salary
9 increases should be across-the-board regardless of the class.
10 The per diem rate of class I, II, and III teachers are to be
11 adjusted upward to match the salary or wage increases that are
12 provided to licensed class II teachers in bargaining unit 5 in
13 the collective bargaining agreement between the Hawaii State
14 Teachers Association and the department of education.

15 The purpose of this Act is to:

- 16 (1) Establish in section 2, classification and
17 compensation rates for substitute teachers that are
18 consistent with the compensation rates determined by
19 the legislature in 1996; and
20 (2) Settle in section 3, all legal claims between
21 substitute teachers and the department of education.



1 SECTION 2. Section 302A-624, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Effective July 1, [~~2005~~] 2006, the minimum hourly or
4 minimum per diem rate for substitute teachers shall be
5 determined by the legislature[~~;~~ ~~provided that the department~~
6 ~~shall develop a classification and compensation schedule that is~~
7 ~~not restricted to the minimum compensation rates but may exceed~~
8 ~~them~~], as follows; provided [~~further~~] that any individual in
9 class I, II, or III who works less than a full seven-hour work
10 day shall be compensated on a pro-rated, hourly basis [~~as~~
11 ~~follows~~]:

12 (1) Class I: other individuals who do not possess a
13 bachelor's degree shall be compensated at a rate of
14 not less than [~~\$119.80~~] \$ _____ for a full work day;

15 (2) Class II: individuals with a bachelor's degree shall
16 be compensated at a rate of not less than [~~\$130~~] \$ _____
17 for a full work day; and

18 (3) Class III: department of education teachers, or
19 licensed or highly qualified teachers, shall be
20 compensated at a rate of not less than [~~\$140~~] \$ _____
21 for a full work day."



1 SECTION 3. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2006-2007 for
4 the purpose of resolving the claims of substitute teachers in
5 *Garner v. Department of Education* and *Klitternick v. Hamamoto*.

6 The sum appropriated shall be expended by the department of
7 education for the purposes of this Act.

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2020.

SB 3197 SD,
HD1

Report Title:

Substitute Teachers; Compensation Formula; Appropriation

Description:

Establishes that the compensation of substitute teachers shall be tied to the salary or wage increases provided to licensed class II teachers of the department of education. Effective date July 1, 2020. (SB3197 HD1)

