
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 they were being paid in 2005
10 by the department, and required the department to recommend a
11 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, office of human
17 resources, substitute teachers, and parents. The task force
18 recognized the important role that substitute teachers play in



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

3 On any given day, about one thousand substitute teachers
4 are employed by the department of education to carry out the
5 duties of Hawaii's ten thousand regular, full-time teachers. In
6 the final report entitled "A Report to the Legislature on the
7 Department of Education's Response to Act 70," it was noted that
8 there were approximately 4,568 substitute teachers employed by
9 the department of education during school year 2004-2005. The
10 significant role of public school substitute teachers cannot be
11 underestimated.

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

21 On December 16, 2005, in Garner v. DOE (Civil No.
22 03-1-000305) and Klitternick v. Hamamoto (Civil No.



1 05-1-0031-01), Judge Karen Ahn ruled that under section
2 302A-624(e), Hawaii Revised Statutes, as enacted in 1996, the
3 department of education failed to pay substitute teachers a per
4 diem salary based on the annual step salary rate established for
5 a licensed class II teacher established by bargaining unit 5.
6 As of June 30, 2005, that rate was \$146.09 per day. Judge Ahn
7 further ruled that the department of education was obligated to
8 pay the per diem compensation prescribed by law during the
9 period from November 8, 2000, to June 30, 2005, amounting to
10 approximately \$14,300,000. Total claims against the department,
11 including attorney's fees and costs, as well as related unpaid
12 wages for part-time teachers whose pay was based on erroneous
13 substitute teacher rates, total approximately \$24,000,000.

14 In light of Judge Ahn's ruling, the legislature
15 acknowledges that Act 70 was intended to establish a temporary
16 solution of providing adequate compensation to substitute
17 teachers.

18 The legislature finds that it is now time to finally put
19 this matter to rest. Years of litigation between Hawaii's
20 substitute teachers and the department of education has created
21 significant strain between substitute teachers and the
22 department of education, resulting in declining substitute

1 teacher morale, distrust between substitute teachers and the
2 department, and voluntary attrition of substitute teachers,
3 ultimately adversely impacting the quality and availability of
4 substitute teachers serving the department of education.

5 The legislature further finds that this Act is essential to
6 finally resolve the costly and harmful litigation between the
7 two parties, and to create a clean slate between the substitute
8 teachers and the department of education in order to provide the
9 highest quality teaching and work environment for Hawaii's
10 substitute teachers and students.

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

19 The purpose of this Act is to:

20 (1) Determine the classification and compensation rates
21 for substitute teachers that are consistent with the



1 (3) Class III: department of education teachers, or
2 licensed or highly qualified teachers, shall be
3 compensated at a rate of not less than [~~\$140~~] \$147 for
4 a full work day.

5 Notwithstanding any other law to the contrary, the per diem
6 rates established in paragraphs (1), (2), and (3) shall be
7 adjusted to match the salary or wage increases provided to
8 licensed class II teachers under a collective bargaining
9 agreement executed under chapter 89 for bargaining unit 5."

10 SECTION 3. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$, or so
12 much thereof as may be necessary for fiscal year 2006-2007, for
13 the purpose of resolving the claims of substitute teachers in
14 Garner v. Department of Education and Klitternick v. Hamamoto and
15 to resolve the claims of all other personnel who were underpaid
16 based upon pay rates that were calculated in violation of
17 §302A-624(e), Hawaii Revised Statutes.

18 SECTION 4. The sum appropriated shall be expended by the
19 department of education for the purposes of this Act.

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 6. This Act shall take effect on July 1, 2006.



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. (SD1)

