

JAN 18 2008

A BILL FOR AN ACT

RELATING TO SUBSTITUTE TEACHERS.

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

1 SECTION 1. The legislature finds that in 2005, pursuant to
2 Act 70, Session Laws of Hawaii 2005, the legislature established
3 an interim minimum per diem rate while three class action
4 lawsuits between Hawaii's substitute and part-time teachers and
5 the department of education were being litigated. The
6 legislature provided temporary relief to substitute teachers
7 while these long-standing disputes were being litigated.

8 These lawsuits have been the source of contentiousness
9 between substitute teachers and the department of education. On
10 December 16, 2005, the court ruled that the department of
11 education failed to pay substitute teachers the full per diem
12 salary required under the formula created by the legislature in
13 1996. The attorney general has appealed the court's decision,
14 causing additional strife between the department of education
15 and the affected employees.

16 In 2006, pursuant to Act 263, Session Laws of Hawaii 2006
17 (Act 263), the legislature increased the 2005 interim minimum



1 per diem rates by approximately five per cent, again to provide
2 temporary relief to substitute teachers while the lawsuits were
3 being resolved. The per diem rate was adjusted upward to match
4 the salary or wage increases that were provided to class II
5 teachers in bargaining unit 5 in the collective bargaining
6 agreement between the Hawaii State Teachers Association and the
7 department of education. The increase was consistent with their
8 compensation rates determined by the legislature in 1996.

9 In 2007, the legislature and Hawaii's substitute teachers
10 believed that Act 263, required the department of education to
11 provide substitute teachers with a pay increase that matched
12 those negotiated by the Hawaii State Teachers Association for
13 class II teachers. However, even though the department of
14 education provided class II teachers a four per cent pay raise
15 beginning August 1, 2007, it provided substitute teachers no pay
16 increase whatsoever.

17 The purpose of this Act is to reaffirm that the department
18 of education was required to increase the interim minimum pay
19 rates set forth in Act 263 for substitute teachers by providing
20 matching pay increases and to appropriate funds needed to
21 implement that obligation for the 2007-2008 and 2008-2009



1 academic years pending resolution of the class action lawsuits
2 between the department of education and the substitute teachers.

3 Specifically, this Act provides for:

4 (1) An annual compensation formula for substitute teachers
5 tied to the salary or wage increases provided to
6 licensed class II teachers of the department of
7 education;

8 (2) An appropriation for retroactive per diem increases or
9 substitute teachers for the 2007-2008 school year; and

10 (3) An appropriation for per diem increases for substitute
11 teachers for the 2008-2009 school year.

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

14 "(e) Effective July 1, 2006, the minimum hourly or minimum
15 per diem rate for substitute teachers shall be determined by the
16 legislature as follows; provided that any individual in class I,
17 II, or III who works less than a full seven-hour work day shall
18 be compensated on a pro-rated, hourly basis:

19 (1) Class I: other individuals who do not possess a
20 bachelor's degree shall be compensated at a rate of
21 not less than \$125 for a full work day;



1 (2) Class II: individuals with a bachelor's degree shall
2 be compensated at a rate of not less than \$136 for a
3 full work day; and

4 (3) Class III: department of education teachers, or
5 licensed or highly qualified teachers, shall be
6 compensated at a rate of not less than \$147 for a full
7 work day.

8 Notwithstanding any other law to the contrary, beginning
9 August 1, 2007, the per diem rates established in this section
10 shall be adjusted at the same percentage rate and time as salary
11 adjustments provided to licensed class II teachers under a
12 collective bargaining agreement executed under chapter 89
13 between the exclusive representative of bargaining unit 5 and
14 the board."

15 SECTION 3. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2008-2009 for
18 retroactive pay increases to substitute teachers for the
19 2007-2008 school year and to carry out the purposes of this Act.

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



1 SECTION 4. 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 2008-2009 for
 4 pay increases to substitute teachers during the 2008-2009 school
 5 year and to carry out the purposes of this Act.

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

8 SECTION 5. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval;
 10 provided that:

- 11 (1) Section 2 shall apply retroactively to August 1, 2007;
 12 and
 13 (2) Sections 3 and 4 shall take effect on July 1, 2008.
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Report Title:

DOE; Substitute Teachers; Compensation Formula; Appropriation

Description:

Establishes that the interim compensation of substitute teachers shall be tied to the salary or wage increases provided to licensed class II teachers of the department of education. Appropriates funds for retroactive pay and per diem increases for substitute teachers.

