



GOV. MSG. NO. 1148

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 23, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

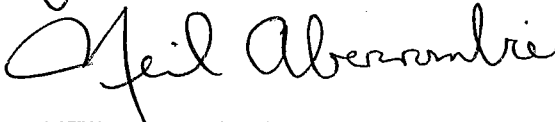
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 23, 2012, the following bill was signed into law:

HB1744 HD1

RELATING TO COMPENSATION.
Act 048 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO COMPENSATION.

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

1 SECTION 1. The commission on salaries was established by
2 constitutional amendment that was ratified by Hawaii voters in
3 2006. The commission is charged with reviewing and recommending
4 salaries for state justices and judges, legislators, the
5 governor, the lieutenant governor, and specified appointed
6 officials within the executive branch. The commission convened
7 in 2006 and submitted its report and recommendations to the
8 legislature in 2007 with a schedule of salary recommendations.
9 By constitutional law, the salaries recommended and submitted by
10 the commission become effective as provided in the
11 recommendation, unless the legislature disapproves the
12 recommendation in its entirety. The legislature did not
13 disapprove the recommendations of the commission convened in
14 2006.

15 The legislature notes that the commission's salary
16 recommendations specify a July 1, 2007, effective date for
17 executive and judicial branch official salaries, and a January
18 1, 2009, effective date for legislator salaries. The state



1 constitution provides that any change in salary that becomes
2 effective shall not apply to the legislature to which the
3 recommendation for the change in salary was submitted.

4 The legislature finds that Act 57, Session Laws of Hawaii
5 2011, establishes a July 1, 2009, until December 31, 2013,
6 salary reduction period for all positions under the Act, but
7 applies different salary provisions to those positions after
8 that period. This has raised concern as to whether those
9 provisions comport with article XVI, section 3.5, of the state
10 constitution, which prohibits the salaries from being decreased
11 during a term of office except by general law applying to all
12 salaried officers of the State.

13 The legislature also finds that Act 57 also extends the
14 five per cent salary reduction until December 31, 2013, for all
15 salaries but does not address the impact of the reductions on
16 the 2012 commission's recommendations for the executive and
17 judicial salaries for the period July 1, 2013, through December
18 31, 2013, thus resulting in a possible conflict between the 2011
19 law and the next commission's recommendations.

20 The next commission on salaries will convene in 2012 and
21 will submit its report and recommendations to the 2013
22 legislature. It is the intent that the 2013 legislature



1 deliberate the range of issues related to salary levels that may
2 be recommended by the 2012 commission after those salaries are
3 proposed.

4 The purpose of this Act is to resolve the ambiguity and
5 concerns arising from provisions contained in Act 57, Session
6 Laws of Hawaii 2011, by:

- 7 (1) Amending the salary reduction period to reflect that
8 it is effective through June 30, 2013;
- 9 (2) Deleting provisions relating to the restoration of
10 salaries to what they would have been on July 1, 2009,
11 but for the salary reductions provided by Act 85,
12 Session Laws of Hawaii 2009, as amended by Act 57,
13 Session Laws of Hawaii 2011; and
- 14 (3) Deleting provisions relating to the salary commission
15 that convenes in 2012 as unnecessary, inasmuch as
16 existing provisions set forth the scope of its
17 mandate.

18 SECTION 2. Section 2 of Act 85, Session Laws of Hawaii
19 2009, as amended by section 1 of Act 57, Session Laws of Hawaii
20 2011, is amended to read as follows:



1 "SECTION 2. (a) Notwithstanding any law to the contrary
2 and notwithstanding the recommendations of the commission on
3 salaries convened in 2006 for salary increases, beginning
4 July 1, 2009, and [~~until December 31,~~] through June 30, 2013,
5 the annual salaries of the governor, the lieutenant governor,
6 the justices and judges of all state courts, the administrative
7 director of the State or an equivalent position, and the
8 department heads or executive officers and the deputies or
9 assistants to the department heads or executive officers of the
10 departments of:

- 11 (1) Accounting and general services;
- 12 (2) Agriculture;
- 13 (3) The attorney general;
- 14 (4) Budget and finance;
- 15 (5) Business, economic development, and tourism;
- 16 (6) Commerce and consumer affairs;
- 17 (7) Defense;
- 18 (8) Hawaiian home lands;
- 19 (9) Health;
- 20 (10) Human resources development;
- 21 (11) Human services;
- 22 (12) Labor and industrial relations;



1 (13) Land and natural resources;

2 (14) Public safety;

3 (15) Taxation; and

4 (16) Transportation,

5 shall be reduced by five per cent from what the salary is as of
6 June 30, 2009, and shall remain at that salary rate [~~until~~
7 ~~December 31,~~] through June 30, 2013 [~~;~~ ~~provided that on January~~
8 ~~1, 2014, the salaries of these positions shall be restored to~~
9 ~~the level they would have been on July 1, 2009, without the~~
10 ~~salary decrease under this Act; provided further that if any~~
11 ~~salary recommendations for these positions are made and are to~~
12 ~~take effect on or after January 1, 2014, by the commission on~~
13 ~~salaries, and the recommendations are not disapproved by the~~
14 ~~legislature, then the salary recommendations shall become~~
15 ~~effective on the date specified by the commission on salaries in~~
16 ~~accordance with its recommendations].~~

17 (b) Notwithstanding any law to the contrary and
18 notwithstanding the recommendations of the commission on
19 salaries convened in 2006 for salary increases, beginning July
20 1, 2009, and [~~until December 31,~~] through June 30, 2013, the
21 annual salaries of members of the legislature shall be reduced
22 by five per cent from what the salary is as of June 30, 2009[+



1 ~~provided that the salary recommendations of the commission on~~
2 ~~salaries for legislators effective January 1, 2014, shall become~~
3 ~~effective on that date in accordance with the recommendations.],~~
4 and shall remain at that salary rate through June 30, 2013.

5 (c) For the period from July 1, 2009, [~~to December 31,~~
6 through June 30, 2013, notwithstanding any law to the contrary,
7 the leaves of absence for vacation and sick leave, with pay, of
8 persons affected under subsections (a) and (b) shall be the same
9 as those negotiated, mediated, or arbitrated under chapter 89,
10 Hawaii Revised Statutes, for collective bargaining unit (13) [+
11 ~~provided that on January 1, 2014, the leaves of absence under~~
12 ~~this subsection shall be either: restored to the level they~~
13 ~~would have been on July 1, 2009, but for this subsection; or~~
14 ~~commensurate with any salary adjustment recommended for any~~
15 ~~period on or after January 1, 2014, by the commission on~~
16 ~~salaries and not disapproved by the legislature].~~

17 (d) This section shall not be construed to impart any
18 right to additional compensation previously authorized through
19 the adoption of the recommendations of the commission on
20 ~~[salaries' recommendations]~~ salaries convened in 2006, for the
21 period from [~~January 1, 2009,~~] July 1, 2007, through [~~December~~



1 ~~31,]~~ June 30, 2013, for positions covered under subsections (a)
2 and (b).

3 (e) This section shall not be enforced to the extent that
4 it is preempted by federal law."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval;
8 provided that:

9 (1) Act 85, Session Laws of Hawaii 2009, as amended by Act
10 57, Session Laws of Hawaii 2011, as amended by this
11 Act shall be repealed at 11:59 p.m. on June 30, 2013;

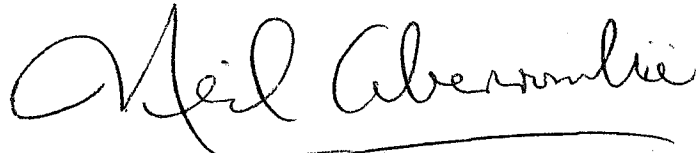
12 (2) The repeal of Act 85, Session Laws of Hawaii 2009, as
13 amended by Act 57, Session Laws of Hawaii 2011, as
14 amended by this Act shall not be construed to restore
15 or reinstate for the period of July 1, 2009, through
16 June 30, 2013, any leaves of absence for vacation or
17 sick leave, any salary reduction incurred during the
18 period specified in this paragraph, or any other
19 compensation reduced by the aforementioned Acts; and

20 (3) On July 1, 2013, and thereafter, unless modified by
21 the adoption of the recommendations of the commission
22 on salaries scheduled to convene in 2012, all salaries



1 reduced by Act 85, Session Laws of Hawaii 2009, as
2 amended by Act 57, Session Laws of Hawaii 2011, as
3 amended by this Act, and notwithstanding section 26-
4 56(d), Hawaii Revised Statutes, shall be at the rates
5 provided for by the recommendations, dated March 14,
6 2007, of the commission on salaries convened in 2006.

APPROVED this 23 day of APR, 2012



GOVERNOR OF THE STATE OF HAWAII

