



The Judiciary, State of Hawaii

Testimony to the House Committee on Labor and Public Employment

Representative Karl Rhoads, Chair
Representative Kyle T. Yamashita, Vice Chair

Tuesday, January 24, 2012, 9:30 a.m.
State Capitol, Conference Room 309

by
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Bill No. and Title: House Bill No. 1799, Relating to Salaries.

Purpose: To correct ambiguities in Act 57, SLH 2011 (Act 57), relating to compensation for executive, judicial, and legislative officials

Judiciary's Position:

The Judiciary supports this measure.

Act 57's salary mandates raise several concerns. Salary reductions for executive and judicial officials, which Act 57 extended through December 31, 2013, may conflict with future salary recommendations. The Commission on Salaries will convene in 2012 and develop salary recommendations for consideration by the 2013 Legislature as mandated by Article XVI, section 3.5 of the Hawai'i Constitution (Article XVI). Based on past practice, these recommendations will presumably include salary rates for executive and judicial officials for the salary year July 1, 2013 through June 30, 2014.

Thus, Act 57 also appears to authorize two different salary rates for the 6-month period from July 1, 2013 through December 31, 2013. The law explicitly provides for a salary reduction during this period. It also provides that if new salary recommendations are made and are not disapproved, they take effect as specified by the commission's recommendation. If the 2012 commission recommends salaries for executive and judicial officials effective July 1, 2013, it is unclear as to whether this new rate, or the rate established by Act 57, applies to the last six months of 2013.



House Bill No. 1799, Relating to Salaries
House Committee on Labor and Public Employment
Tuesday, January 24, 2012
Page 2

Second, while Article XVI requires that any salary decrease shall be “by general law applying to all salaried officers,” Act 57 provides that, effective January 1, 2014, judicial and executive salaries will be calculated differently from legislative salaries. Specifically, absent contrary recommendations from the 2012 commission, executive and judicial officials will be paid at a reduced salary rate (the July 1, 2009 rate), while legislators will be compensated at the full January 1, 2014 rate recommended by the 2006 Salary Commission.

HB 1799 addresses the above concerns by continuing the current salary reductions and deferring salary increases for all officials until June 30, 2013. Effective July 1, 2013, legislators would be paid in accordance with the 2006 commission's recommendations applicable to the period January 1, 2013 through December 31, 2013, and executive and judicial officials would be paid at the July 1, 2012 rates recommended by the 2006 commission. The latter requirement would not preclude the 2012 commission from recommending new salary rates for executive and judicial officials effective July 1, 2013. However, if the 2012 commission's recommendations are disapproved, the bill ensures that these officials receive salaries based upon the last rates recommended by the preceding commission. This compensation scheme is consistent with a February 26, 2007 Attorney General Opinion, in which the Department advised the Speaker of the House that if the 2006 commission's recommendations were to be rejected by the legislature, the state constitution would not authorize the commission to reconvene and reconsider its recommendations, and the salaries of the affected state officials would be in accordance with the last recommendations of the predecessor salary commissions, including percentage increases.

Under HB 1799, the State would continue to realize cost savings through salary reductions, but in a manner that comports with the requirements of the salary law and does not impinge upon the authority of the 2012 Commission or 2013 Legislature.

Further, restoring salaries effective July 1, 2013 to levels recommended by the Commission would help the State to retain qualified individuals in government employment, including judges. From July 1, 2009, when the salary reductions were implemented, through August 2011, 11 judges (under the mandatory retirement age) left the bench, compared to 5 in the prior two-year period. With the departure of these judges, the State of Hawaii has lost the benefit of 169 years of judicial experience.

Even before the pay cuts, Hawaii's judicial salaries were the lowest and last among all the states, when adjusted for cost of living, as noted by the Commission of Salaries in its March 14, 2007 report to the legislature. According to the most recent Survey of Judicial Salaries published by the National Center for State Courts, as of July 1, 2011, Hawaii's trial judges continue to receive the lowest salaries in the nation when adjusted for cost of living, and Hawaii ranks 51st out of all states and the District of Columbia.

Thank you for the opportunity to testify on HB 1799.