

ACT 159

H.B. NO. 924

A Bill for an Act Relating to Compensation for State and County Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 400, Session Laws of Hawaii 1988, corrected a pay inequity affecting excluded managerial employees who remained incumbents since the excluded managerial compensation plan (hereafter referred to as "EMCP") went into effect on July 1, 1981, and those employees who were assigned to the EMCP without a pay increase prior to July 1, 1982, by providing lump sum payments and pay adjustments for those managers. Act 400 appropriated funds and authorized the chief executives of the State and counties and the chief justice, or their designated representatives, to provide lump sum payments and pay adjustments to charter members of the EMCP who remained as incumbents as of July 1, 1988. However, Act 400 did not provide for back pay for those charter members of the EMCP who had left their positions prior to July 1, 1988, although they had performed services but were not paid correctly for those services. As a matter of fairness and equity, former charter members of the EMCP who had performed services as managerial employees during any part of the period covered by Act 400 also should be provided back pay.

The purpose of this Act is to provide lump sum payments to those former charter members of the EMCP who retired from active service, who left state or county government employment, or who transferred to positions covered by a pay plan other than the EMCP, and who would have received a lump sum payment under Act 400 had they remained in the EMCP as of July 1, 1988.

SECTION 2. Lump sum payments and adjustments shall be granted to former charter members of the EMCP, other than those charter members who were employed as of July 1, 1988, and were provided back pay and pay adjustments under

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Act 400, Session Laws of Hawaii 1988; provided that the former charter member was an incumbent of the EMCP as of July 1, 1981, or was assigned to the EMCP without a pay increase prior to July 1, 1982, and performed services as a managerial employee during any part of the period beginning July 1, 1981 and ending June 30, 1988. The lump sum payment shall be computed as if adjustments were made as follows: beginning from July 1, 1981, each such former employee's pay shall be adjusted by amounts equal to the dollar differences between the minimum rates of the initial EM range and the minimum rates of the comparable SR range, and the former employee shall be given credit for each full month of service performed or any fraction thereof.

SECTION 3. The designated representatives of the chief executives of the State and counties and the chief justice shall identify the eligible former managerial employees and compute the back pay due each person. The method of computation necessary to achieve the purpose of this Act shall be determined uniformly and applied by all jurisdictions.

SECTION 4. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1989-1990 to be exceeded by \$1,027,659, or 0.044 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 5. There is hereby appropriated from the general revenues of the State of Hawaii to the program planning, analysis, and budgeting program (BUF 101) the sum of \$425,350, or so much thereof as may be necessary for fiscal year 1989-1990, to fund the lump sum payments for former managerial employees of the state executive branch eligible for payments pursuant to section 2 of this Act. Special funds, federal funds, and other funds available for funding the purpose of this Act are hereby appropriated or authorized in lieu of general funds. Funds appropriated or authorized by this section shall be expended by the director of finance for the purpose of this Act.

SECTION 6. There is hereby appropriated from the general revenues of the State of Hawaii to the administrative director of services (JUD 201) the sum of \$26,977, or so much thereof as may be necessary for fiscal year 1989-1990, to fund the lump sum payments for former managerial employees of the state judicial branch eligible for payments pursuant to section 2 of this Act. Funds appropriated by this section shall be expended by the chief justice for the purposes of this Act.

SECTION 7. There are hereby appropriated from the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary for fiscal year 1989-1990, to fund the lump sum payments for former managerial employees of the counties eligible for payments pursuant to section 2 of this Act:

City and county of Honolulu	\$409,332
County of Hawaii	\$ 50,000
County of Maui	\$ 66,000
County of Kauai	\$ 50,000

Funds appropriated by this section shall be expended by the respective county finance directors for the purposes of this Act.

SECTION 8. The provisions of this Act shall not be interpreted as affected by Article 5, section 8, of the Hawaii State Constitution. The funds provided for

fiscal year 1989-1990 to the counties are of a one-time nature to carry out the purpose of this Act.

**SECTION 9.** This Act shall take effect on July 1, 1989.

(Approved June 7, 1989.)