

ACT 328

H.B. NO. 1853

A Bill for an Act Relating to Shortage Category Classes for Public Employees.

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

SECTION 1. Section 77-9, Hawaii Revised Statutes, is amended to read as follows:

**“§77-9 Initial appointments; shortage categories and differentials.** (a) All initial appointments shall be made at the first step of the appropriate salary range.

(b) In the event that recruitment of an employee is not practicable at the first step, the director, after appropriate notice and advertising, may recruit at any step within the appropriate salary range at which a suitable employee can be recruited.

[(b)] (c) Whenever a labor shortage exists in a class or group of positions in a class, the director, with the prior approval of the chief executive, may declare [it] the class or group of positions to be a shortage category [and adjust the entry salary in accordance with subsection (c) to an amount which is fair and reasonable and at which employees can be recruited from the labor market]. The director may review the impact of making such [an adjustment] a declaration on other classes or groups of positions in classes within the same series. If the director finds that it is necessary [to adjust the entry salary of another class or group of positions in a class] to preserve internal relationships within the series, the director may [make such an adjustment in accordance with subsection (c); provided that the adjustment shall be not more than five per cent for each succeeding higher level class or group of positions in a class.] declare those other classes or groups of positions as related shortage categories. The director shall review each shortage category periodically,

but at least once each year, to determine whether the labor shortage exists to the same degree as previously determined [and adjust the entry salaries accordingly. If the director determines that a shortage no longer exists, the director shall reestablish the first step of the appropriate salary ranges as the entry salaries].

- (1) The director shall set the new entry salary of a shortage category at an amount which is fair and reasonable and at which employees can be recruited from the labor market.
- (2) The director shall set the new entry salary of a related shortage category in consideration of appropriate internal pay relationships. The new entry salary of the related shortage category shall not exceed the minimum step of the applicable salary range by a per cent greater than that between the new entry salary and the minimum step of the highest level shortage category.
- [(c)] (3) An adjustment to an entry salary under [subsection (b)] paragraphs (1) and (2) shall be made by adding to the first step of the appropriate salary range a temporary shortage differential, which shall not be considered an adjustment to base pay. The amount of the differential shall be the dollar difference between the [adjusted] new entry salary and the first step of the appropriate salary range, which shall be recomputed whenever there is a change in the respective pay schedule.
- [(d)] (4) Whenever [the] a new entry salary is [being adjusted] determined for a class or group of positions in a class[,], under paragraphs (1) and (2), incumbents thereof who are being paid less than the [adjusted] new entry salary shall have their pay adjusted [to an equivalent amount. The adjustment shall be made] by adding to their respective steps, a temporary shortage differential, which is not to be considered as an adjustment to base pay. The amount of the differential shall be the dollar difference between the [adjusted] new entry salary and their respective steps, which shall be recomputed whenever there is a change in the respective pay schedule.
- (5) In addition to establishing a new entry rate, the director, if necessary to promote retention of existing incumbents, may provide alternative adjustments to the salaries of incumbents in a shortage category and related shortage category. The adjustments shall maintain pay relationships within a class or group of positions within a class and shall be apply<sup>1</sup> to all employees including those who are paid the same as or more than the new entry salary. Any adjustment under this subsection shall replace the adjustments provided under paragraph (4) and no adjustment under this subsection shall result in a salary which exceeds the maximum step of the pay range.
- (6) An adjustment to a salary under paragraph (5) shall be made by adding to the appropriate step of the appropriate salary range a temporary shortage retention differential, which shall not be considered an adjustment to base pay. The amount of the differential shall replace any shortage differential provided under paragraph (4) and shall be a diminishing amount, to be computed as follows:
  - (A) The differential for incumbents at the first step shall be the dollar difference between the new entry salary and the first step;
  - (B) For the next step above the first step, the differential shall be equal to the first step differential less the quotient of the first step differential divided by the number of remaining steps in the salary range; and

- (C) The differential for each succeeding step shall be determined in the same manner, by using the differential for the preceding step minus the quotient, until the differential nets out to zero at the maximum step. All differentials shall be recomputed whenever there is a change in the respective pay schedule.
- (7) The director is authorized to provide similar differentials for positions and employees in the excluded managerial compensation plan.
- (8) As a result of the periodic review of each shortage category, the director may adjust salaries in accordance with subsection (b) and paragraphs (1) and (2). If the director determines that a shortage no longer exists, the director shall reestablish the first step of the appropriate salary range as the entry salary rate for the class or group of positions.
- [(e)] (9) In the event that the new entry salary for a [class or group of positions in a class] shortage category or related shortage category is subsequently lowered, incumbents [thereof] who are receiving a temporary shortage or retention differential shall continue to receive so much of the differential as is necessary to maintain their then existing pay until the rates for their respective steps equal or exceed [such amount.] those amounts.
- (10) If employees move from their respective positions in which they were granted a temporary shortage or retention differential, the differential shall terminate and their pay shall be adjusted without the differential.
- [(f)] (d) The director shall maintain a list of all recruitment above the first step and shortage category determinations under this section and the justifications therefor."

SECTION 2. 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 appropriation contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1989-1990 to be exceeded by \$1,473,513, or 0.063 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriation made in this Act is necessary to serve the public interest and to meet the need provided for by this Act.

SECTION 3. There is hereby appropriated or authorized from the sources of funding indicated below to the Program Planning, Analysis, and Budgeting program (BUF 101), the following sums, or so much thereof as may be necessary, to fund adjustments to be made pursuant to the provisions of this Act for fiscal year 1989-1990.

General Funds	\$1,473,513
Special Funds	205,116
Federal Funds	184,518

Funds appropriated or authorized by this section shall be allotted by the Director of Finance in fiscal year 1989-1990 for the purposes of this Act.

SECTION 4. Cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from any federal, special, or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 1989.

## **ACT 328**

(Approved June 15, 1989.)

### **Note**

1. So in original.