

EXECUTIVE ORDER NO. 16-07

(89-day Non-Civil Service Appointments and Exempt Appointments Less than or Equal to 89-days)

WHEREAS, under chapter 89C of the Hawaii Revised Statutes (HRS), the Governor is granted the authority to make adjustments to the wages, hours, benefits, and other terms and conditions of employment for elected and appointed officials, and employees in the executive branch who are excluded from collective bargaining coverage; and

WHEREAS, for excluded employees who are civil service employees under the same classification systems as employees within collective bargaining units, chapter 89C requires that the adjustments be "not less than" those provided under the collective bargaining agreements for employees hired on a comparable basis; and

WHEREAS, employees who are appointed for eighty-nine (89) days or less are, by law, excluded from collective bargaining; and

WHEREAS, employees who receive non-civil service appointments are appointed to positions under the same classification systems as employees within collective bargaining units, but are not hired on a comparable basis;

WHEREAS, chapter 89C provides that each appropriate authority shall determine the adjustments that are relevant for their respective excluded employees who are exempt from civil service in consideration of the compensation and benefit packages provided for other employees in comparable agencies.

NOW, THEREFORE, I, David Y. Ige, Governor of Hawai'i, pursuant to my executive authority under articles V and VII of the Constitution of the State of Hawai'i, the provisions of chapters 37 and 89C of the Hawaii Revised Statutes, and all other applicable authority, do hereby order, effective January 1, 2017, the following for State

executive branch employees in eighty-nine (89) day non-civil service appointments and exempt appointments less than or equal to eighty-nine (89) days:

(Note: This executive order supersedes Executive Order 03-02 and Executive Order 05-10, which specified the benefits for excluded employees who are appointed for eighty-nine (89) days or less.)

Compensation – No Retroactive Application

When the effective date of applicable pay increases is prior to the date that funding was approved by the legislature, the employees shall receive the most recent pay increase effective from the first pay period after funding is approved by the legislature. Pay increase(s) shall not be applied retroactively from the date that funding was approved by the legislature.

Benefits

The benefits granted to excluded employees in the State executive branch who are given an eighty-nine (89) day non-civil service appointment and exempt appointments less than or equal to eighty-nine (89) days, shall be identical to those of the bargaining unit from which the employee is excluded, if applicable, for the following: overtime, standby pay, split shift pay, night shift differential, working condition differential, temporary hazard pay, mileage, and per diem.

In addition to the foregoing, the excluded employees shall receive the following, if applicable:

- (1) Payments for meals due to pre-shift and post-shift overtime on the same basis as meal payments provided to employees assigned to the bargaining unit from which the employee is excluded.

- (2) Show up time pay for regular work days on a straight time basis for time actually worked, subject to a minimum of three hours of pay;
- (3) Show up time pay if scheduled to work on a normal day off. The employee shall receive straight time or overtime pay as applicable, subject to a minimum of three hours of straight time pay or two hours of overtime pay; and
- (4) Call back or call out pay from the time the employee leaves the employee's home until the employee returns home from work. The employee shall receive straight time or overtime pay as applicable.

Appointing authorities shall also have the discretion to determine whether employees who are appointed to non-civil service eighty-nine (89) day appointments in shortage category or related shortage category civil service positions, are to receive shortage category or related shortage category pay.

Employees shall continue to receive benefits based upon other official authorization (e.g., administrative directive) or as required by law.

IT IS FURTHER ORDERED that this executive order does not apply to (1) employees of public charter schools, the Department of Education and the University of Hawai'i; and (2) those executive branch employees whom I later determine shall not receive the aforementioned adjustment; and

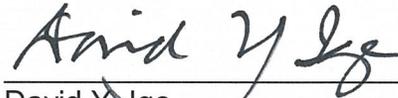
IT IS FURTHER ORDERED that this executive order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or

enforceable at law or in equity, against the State of Hawai'i or its agencies, departments, entities, employees, or any other person; and

IT IS FUTHER ORDERED that these provisions are subject to amendment by executive order.

The Director of Human Resources Development shall be responsible for the uniform administration of this executive order and is authorized to make any interpretations concerning the applicability of these adjustments to the employees of the State government executive branch who are excluded from collective bargaining coverage.

DONE at the State Capitol, Honolulu,
State of Hawai'i, this 30th day of
December, 2016.



David Y. Ige
Governor of Hawai'i

APPROVED AS TO FORM:



for Douglas S. Chin
Attorney General