

**EXECUTIVE ORDER NO. 24-03**

(Civil Service and Exempt Employees Excluded from Bargaining Units 2, 3, 4, 9, 13, and 14)

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, HRS 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, HRS chapter 89C also requires that the adjustments for excluded civil service employees result in compensation and benefit packages that are “at least equal to” the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates within the Employer’s jurisdiction; and

WHEREAS, the State of Hawai’i has entered into a settlement agreement regarding Temporary Hazard Pay (THP) with the Hawai’i Government Employees Association (HGEA) as the exclusive representative for BUs 2, 3, 4, 9, 13, and 14 for the period covering March 4, 2020 to March 25, 2022, for those employees who performed essential functions during the COVID-19 pandemic; and

WHEREAS, consistent with the agreed-upon terms and conditions, the Director of Human Resources Development has recommended to the Governor the adjustments specified in this executive order for civil service and exempt employees within the executive branch who are excluded from BUs 2, 3, 4, 9, 13, and 14.

NOW, THEREFORE, I, Josh Green, M.D., 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 the following for all affected employees (hereinafter "Affected Employees") who are or who were civil service and exempt excluded from BUs 2, 3, 4, 9, 13, and 14 and Excluded Managerial Compensation Plan (EMCP) employees excluded from BUs 2, 4, 9, 13, and 14 who are or who were employed by the State of Hawai'i during the period of March 4, 2020 to March 25, 2022:

1. Tier 1 - \$20,000 THP lump sum paid in two installments to all Affected Employees who were physically at work; provided that:

For employees who worked a 5-8 regular work week schedule, the number of days required is 420 days or more on and/or between March 4, 2020 through March 25, 2022.

For employees who worked a 4-10 alternate work week schedule, the number of days required is 336 days or more on and/or between March 4, 2020 through March 25, 2022.

For employees who worked a 3-12+4 work week schedule, the number of days required is 305 days or more on and/or between March 4, 2020 through March 25, 2022.

To qualify for the lower minimum number of days the employee must have worked this alternative work week schedule for a majority of the working days on and/or between March 4, 2020 through March 25, 2022 period.

Tier 2 - \$10,000 THP lump sum paid in two installments to all Affected Employees who were physically at work less than 420 days on and/or between March 4, 2020 through March 25, 2022, provided that for employees who worked a 4-10 alternate work week schedule, the number of days shall be less than 336 and for employees who worked a 3-12+4 work week schedule, the number of days shall be less than 305.

Employees who did not physically report to work during the identified period would not be entitled to compensation.

2. For purposes of this Executive Order, a "day" is counted if the Affected Employee physically reported to work on a scheduled work day, regardless of the duration at work.

3. The following shall not be counted toward the physically at work day requirement:
  - a. Vacation leave
  - b. Sick leave
  - c. Compensatory time off
  - d. Workers' compensation
  - e. Telework or work from home arrangements
  - f. Administrative leave with or without pay
  - g. Leave without pay
  - h. Families First Coronavirus Response Act (FFCRA) leave
  - i. Family and Medical Leave Act (FMLA) leave
  - j. Overtime hours and other salary considerations, etc.
4. All Affected Employees will be required to complete and submit a form to self-assess and document their tier placement by July 31, 2024, subject to approval by the supervisor. Only in the event of a disagreement between the Affected Employee and supervisor regarding tier placement, the Affected Employee will have 30 calendar days to present information/documentation to substantiate a different tier placement to the Department Director or designee. In the event there still is a disagreement, the Affected Employee will have 30 calendar days from the Department Director's/designee's response to present information/documentation to substantiate a different tier placement to the Office of Collective Bargaining for review and final decision making.
5. Affected Employees who are no longer employed are also eligible for the lump sum payments, provided they complete and submit the form required by the Employer by July 31, 2024.
6. The THP will be paid as a lump sum in two (2) separate installments to each Affected Employee, processed as a separate payment from the Affected Employee's bi-monthly check, via the payroll system. The first payment will be in October 2024 and the second payment will be in March 2025. The Employees' Retirement System (ERS) requires the Employer to report such payout broken down by pay period.
7. The Employer shall withhold all taxes and retirement contributions required by law for the Affected Employees. Union dues will also be deducted from this payment, if applicable. Affected Employees are responsible for all tax liabilities incurred as a result of this Settlement Agreement.
8. The lump sum payment is creditable for ERS purposes only for employees who became an ERS member before July 1, 2012.

IT IS FURTHER ORDERED that this executive order does not apply to:

(1) employees of the Department of Education, and the University of Hawai'i; (2) 89-day

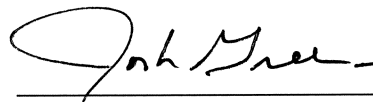
non-civil service appointments and exempt appointments less than or equal to 89 days; and (3) those executive branch employees whom I later determine shall not receive the aforementioned adjustments; and

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 FURTHER 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 27<sup>th</sup> day of  
June, 2024.



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JOSH GREEN, M.D.  
Governor

APPROVED AS TO FORM:

*Anne E. Lopez*

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Anne E. Lopez  
Attorney General