

EXECUTIVE ORDER NO. 03-10

WHEREAS, section 89C-2 of the Hawaii Revised Statutes (HRS) authorizes the Governor to make adjustments to the wages, hours, benefits, and terms and conditions of employment for public officers and employees within the state government executive branch who are excluded from bargaining units (BUs) 02, 03, 04, 09, and 13, as well as for elected and appointed officials who are not covered by collective bargaining;

WHEREAS, chapter 89C requires that adjustments for non-managerial civil service employees under the same classification systems as employees within the collective bargaining units shall be not less than those provided under the collective bargaining agreements for employees hired on a comparable basis;

WHEREAS, chapter 89C requires that adjustments for excluded employees, other than non-managerial civil service employees, shall, to the extent practicable, uniformly apply to every excluded employee within a homogeneous grouping, but does not preclude variable adjustments based on performance or other job criteria and specific adjustments warranted based on the nature of work performed or working conditions;

WHEREAS, the State, the City and County of Honolulu, the Counties of Hawaii, Maui and Kauai, the Judiciary, and the Hawaii Health Systems Corporation have negotiated a memorandum of agreement with the Hawaii Government Employees Association (HGEA) dated February 14, 2003, regarding drug and alcohol testing;

WHEREAS, chapter 89C requires that the Director of Human Resources Development confer with the personnel directors of other local jurisdictions to ensure

that the adjustments recommended to the Governor are consistent with chapter 76, HRS;

WHEREAS, the Director of Human Resources Development has conferred with the personnel directors of other local jurisdictions to ensure that the adjustments specified in this executive order are consistent with chapter 76, HRS; and

WHEREAS, the Director of Human Resources Development has recommended to the Governor the adjustments specified in this executive order;

NOW, THEREFORE, I, Linda Lingle, Governor of Hawaii, pursuant to the provisions of chapter 89C, HRS, do hereby grant to appointed officials and all officers and employees in the state government executive branch who are excluded from BUs 02, 03, 04, 09, and 13 the following adjustments effective as of the date of this executive order, provided that the random testing component shall not be applicable to 89-day non-civil service employees because of the short duration of their employment.

MISCELLANEOUS RIGHTS AND BENEFITS

Drug and Alcohol Testing

The alcohol and drug testing program shall consist of two components: a reasonable suspicion component and a random testing component.

The reasonable suspicion component is applicable to all appointed officials and officers and employees excluded from BUs 02, 03, 04, 09, and 13. The reasonable suspicion component may be triggered by an accident, other events, or observations by a supervisor or other person who has received specified training. The program involves a "two strikes and you're out" drug and alcohol testing procedure.

The random testing component is applicable to appointed officials from departments in which there are employees subject to random testing. In addition, each such appointing authority shall determine which excluded positions/employees within their respective departments should be included in the random testing component of the program, subject to concurrence by the Director of Human Resources Development.

The alcohol and drug testing program shall follow the policies and procedures specified in the documents that have been developed by the Department of Human Resources Development for the HGEA Drug and Alcohol Testing program, provided that:

1. Cosmetic changes (e.g. removal of references to HGEA on forms and in other documents) shall be made as deemed appropriate;
2. References to the union, HGEA, HGEA bargaining units, HGEA Memorandum of Agreement or Drug and Alcohol Testing Agreement, collective bargaining agreement(s), consultation, mutual agreement/consent, and the provision of information to the union are not applicable;
3. References to collective bargaining agreement due process rights shall mean executive order provisions;
4. References to grievance provisions shall mean internal complaint procedure/Merit Appeals Board; and
5. References to the "Drug and Alcohol Testing Memorandum of Agreement" or "Agreement" shall to mean this executive order.

The Director of Human Resources Development shall be responsible for uniform administration of these adjustments and any interpretations concerning the applicability of these adjustments to state officers and employees of the executive branch who are excluded from collective bargaining and to elected and appointed officials.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 24th
day of October, 2003.


LINDA LINGLE SEAL
Governor of Hawaii

APPROVED AS TO FORM:


MARK J. BENNETT
Attorney General