

EXECUTIVE ORDER NO. 09-02

WHEREAS, in the past year, the widespread impact of the global financial crisis and constantly decreasing revenue projections by the Council on Revenues have forced the State of Hawaii to make drastic and unprecedented revenue and expenditure adjustments to close a budget shortfall of approximately two billion dollars (\$2,000,000,000) through the fiscal biennium 2009-2011; and

WHEREAS, to cover the shortfall in the past year, a number of budgetary actions were taken; and

WHEREAS, based on the May 28, 2009 projections by the Council on Revenues, the State of Hawaii is now facing an additional deficit of seven hundred thirty million dollars (\$730,000,000) through the fiscal biennium 2009-2011, resulting in an immediate fiscal emergency of unparalleled magnitude; and

WHEREAS, given the current revenue estimates, the furlough of State employees, whose salaries and fringe benefits account for approximately seventy percent (70%) of the State operating budget, is necessary to balance the State budget; and

WHEREAS, furloughs will allow the State to continue to carry out its responsibilities and ensure that government services are maintained to the greatest extent possible, while preserving public health and safety in a cost effective manner; and

WHEREAS, furloughs will enable the State to minimize public service disruptions, postpone or avert mass employee layoffs, and result in minimal recruitment and training costs when the economy recovers; and

WHEREAS, if furloughs are not implemented, the State would need to layoff thousands of employees in order to realize an amount of expenditure reduction equivalent to the projected savings from a furlough;

NOW, THEREFORE, I, Linda Lingle, Governor of Hawaii, pursuant to my executive authority, Articles V and VII of the Constitution of the State of Hawaii, the provisions of Chapters 37, 89, and 89C, Hawaii Revised Statutes, and all other applicable authority, do hereby order, effective July 1, 2009, the furlough of all State Executive Branch employees except: (1) those executive branch employees employed by the Department of Education, the University of Hawaii, and the Hawaii Health Systems Corporations; (2) those executive branch employees whose furloughs by me are prohibited by federal law, if any, who will be later explicitly identified; (3) those executive branch employees whose furloughs by me are prohibited by state law, if any, who will be later explicitly identified; (4) those executive branch employees who I later determine and designate should not be furloughed or should not be furloughed during certain periods; and (5) certain part-time intermittent employees (e.g., Aloha Stadium part-time intermittent exempt employees) -- all in accordance with the following terms and conditions:

1. For the purpose of implementing a furlough, the following definition shall apply:

“Furlough” means the placement of an employee temporarily and involuntarily in a non-pay and non-duty status by the Employer because of lack of work or funds, or other non-disciplinary reasons.

2. Employees shall be placed on furlough for a total of seventy-two (72) days over the fiscal biennium 2009-2011. Thirty-six (36) furlough days shall be taken during the fiscal year 2009-2010 and thirty-six (36) furlough days shall be taken during the fiscal year 2010 – 2011.
3. The number of furlough days for all State Executive Branch employees who are subject to furlough as set forth herein, and who are covered or impacted by Act 85, Session Laws of Hawaii 2009, including, but not limited to myself, the Lieutenant Governor, the administrative director of the State, and the directors and deputies of departments identified in Act 85, Session Laws of Hawaii 2009, shall be as set forth separately below.
4. Employees' pay will be automatically adjusted each pay period to account for the directed furlough day(s), with the pay of full-time employees adjusted by the equivalent of one and a half (1.5) days per pay period.
5. Full-time employee pay will be automatically adjusted by eight (8) hours for each furlough day or by one furlough day, whichever is applicable. All other employee pay will be automatically adjusted by using the employees' full-time equivalent (FTE) in computing the number of hours per furlough day (e.g., .5 FTE, .75 FTE, etc.).
6. Subject to my approval, individual departments shall be responsible for developing and implementing by July 1, 2009 departmental furlough plans, consistent with this Executive Order and the State of Hawai'i Furlough Plan announced on June 18, 2009. Department heads or those designated by department heads will determine when employees are to take furlough days based on operational needs.
7. If an employee does not take the required number of furlough days during a particular month because of operational reasons, as directed by that employee's department head or designee, that shall not affect that employee's furlough pay adjustment in that month, and such employee shall take such (untaken) furlough day(s) within the fiscal year, as directed by that employee's department head or designee, without any additional pay adjustment when such day or days are taken.

8. Employees who work other than a normal eight hour workday (e.g., 4 day/10-hour alternative workweek) shall be required to use vacation, compensatory time off, or work to make up the difference between the eight-hour furlough day and the actual hours the employee was scheduled to work. However, the department head has the discretion to allow employees to take their entire alternative workday (e.g., ten (10) hours) as a furlough day, provided that the number of furlough hours per month remains twenty-four (24).
9. Employees shall not be permitted to substitute vacation, sick, compensatory time-off, or any paid leave for the furlough day(s).
10. Any furlough days that have been taken by an employee shall not be included in computing whether an employee is entitled to overtime pay (e.g., in determining whether an employee has worked more than forty (40) hours in a week, any furlough days shall not count as part of those forty (40) hours).

IT IS FURTHER ORDERED that the furloughs ordered herein shall not cause or be deemed to cause:

1. A break of continual service in an Employee's employment;
2. A decrease in the Employer's contribution to the Hawaii employer-union health benefits trust fund;
3. A change in the amount of vacation or sick leave earned by Employees; or
4. A decrease in the Employee's length of service for purposes of the employee's pension, retirement, and deferred compensation plans.

IT IS FURTHER ORDERED that all State Executive Branch employees who are subject to furlough as set forth herein, and who are covered or impacted by Act 85, Session Laws of Hawaii 2009, including, but not limited to myself, the Lieutenant Governor, the administrative director of the State, and the directors and deputies of departments identified in Act 85, Session Laws of Hawaii 2009, shall be furloughed the number of days in each month such that their total pay adjustment will take into account both the five percent (5%) reduction in annual salary for such officers imposed by Act 85

and such furlough, resulting in a total annual pay adjustment to them of approximately thirteen and eighty-five hundredths percent (13.85%) of their annual salaries; 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 Hawaii or its agencies, departments, entities, officers, employees, or any other person; and

IT IS FURTHER ORDERED that these provisions are subject to amendment by Executive Order; and

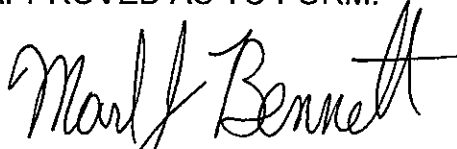
IT IS REQUESTED that other entities of State government, including the Judiciary, the Office of Hawaiian Affairs, and the Legislature implement similar furlough programs or restrict their respective budgets to achieve equivalent savings through the fiscal biennium 2009-2011.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 24th day of
June, 2009.


LINDA LINGLE
Governor of Hawaii



APPROVED AS TO FORM:


MARK J. BENNETT
Attorney General