H.B. NO. 3144

A BILL FOR AN ACT

RELATING TO THE STATE OF HAWAII DEFERRED COMPENSATION PLAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The State of Hawaii deferred compensation plan ("plan") is a supplemental retirement plan that is authorized under section 457 of the Internal Revenue Code of 1986, as amended, and chapter 88E, Hawaii Revised Statutes. The plan is available to employees of the State of Hawaii and participating counties who are eligible to participate in the employees' retirement system of the State of Hawaii. Under the plan, participating employees can contribute a part of their compensation on a tax-deferred basis. The plan allows employees to supplement the retirement income they will receive from the employees' retirement system and the United States Social Security Administration. Currently, the counties of Hawaii, Maui, and Kauai participate in the plan.

The State and the counties of Hawaii, Maui, and Kauai have a combined workforce of approximately 57,103 who are eligible to participate in the plan. However, of the number of eligible employees, only approximately thirty-five per cent of active

employees participate in the plan. The plan's board of trustees ("board") is concerned about the plan's low participation rate because industry experts and financial consultants believe that relying on retirement income from an employee's pension and social security alone may not be sufficient to keep up with rising inflation costs. Thus, to assist employees in taking advantage of this important employee benefit and saving more for retirement, the board proposes to automatically enroll all new state and participating county employees into the plan. To accomplish this, the bill proposes to deduct one per cent of each employee's gross monthly wages and deposit it into a default investment option selected by the board.

However, the bill also provides flexibility to those employees who do not want to participate in the plan by allowing these employees to opt out of the plan within ninety calendar days after being automatically enrolled into the plan. Employees who timely opt out of the plan shall receive their contributions without a penalty, subject to changing market prices and the payment of all applicable federal and state taxes.

SECTION 2. Section 88E-2, Hawaii Revised Statutes, is amended to read as follows:

"[~~(~~]**§88E-2**[~~)~~] **State deferred compensation plan**[~~.~~]**;** **automatic enrollment.** (a) The State may establish a deferred compensation plan in accordance with section 457 of the Internal Revenue Code of [~~1954,~~] 1986, as amended, for the benefit of employees to defer a portion of their compensation to a future period of time. [~~Participation in the plan shall be by written agreement between the employee and the State.~~] The county may enter into a formal agreement with the State to extend the plan to employees of the county; provided that the agreement designates one of the county's agencies to locally coordinate the plan. [~~Participation in the plan by a county employee shall be by written agreement between the employee and the county. An employee may authorize deductions to be made from the employees' wages for the purpose of participation in the plan.~~]

(b) Prior to July 1, 2009, participation in the plan shall be voluntary. State employees may participate in the plan by entering into a written agreement with the State and authorizing deductions to be made from the employee's gross monthly wages and contributed to the plan. County employees may participate in the plan by entering into a written agreement with the county and authorizing deductions to be made from the employees' gross monthly wages and contributed to the plan.

1 (c) Effective on July 1, 2009, all state and participating
2 county employees who are hired on or after July 1, 2009, shall
3 be automatically enrolled into the plan. Participation in the
4 plan shall be mandatory, with a mandatory payroll deduction of
5 one per cent of each employee's gross monthly wages, which shall
6 be contributed to the plan; provided that:
7 (1) Participation in the plan shall be effective on the
8 date the employee is hired;
9 (2) The mandatory contributions shall be deposited into
10 the default investment option selected by the board;
11 (3) The board may increase the mandatory payroll deduction
12 up to a maximum of three per cent without complying
13 with the rulemaking requirements of chapter 91;
14 (4) State and participating county employees who are
15 automatically enrolled into the plan on and after July
16 1, 2009, may, within ninety calendar days after being
17 automatically enrolled into the plan, opt out of
18 participating in the plan. Employees who timely opt
19 out of participating in the plan shall have all of
20 their mandatory contributions returned to them without
21 a penalty, subject to changing market prices, and the
22 payment of all applicable federal and state taxes."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2009.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3144

Report Title:
State Deferred Compensation; automatic enrollment; retirement

Description:
Encourages employees to save for retirement by automatically enrolling newly hired employees into the Deferred Compensation Plan (DCP) unless the new employee elects not to enroll.

HB 3144

JUSTIFICATION SHEET

DEPARTMENT: Human Resources Development.

TITLE: A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII DEFERRED COMPENSATION PLAN.

PURPOSE: To assist eligible state and participating county employees in saving for retirement by automatically enrolling new employees into the State of Hawaii Deferred Compensation Plan ("Plan"), while allowing employees who subsequently decide to not participate to opt out of the Plan.

MEANS: Amend section 88E-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Plan is a supplemental retirement plan that is available to all state employees, and the employees of Kauai, Maui, and Hawaii counties. Under the Plan, participating employees can contribute part of their compensation on a tax-deferred basis. The Plan allows employees to supplement the retirement income they will receive from the State's Employees Retirement System ("ERS") and Social Security ("SS").

Currently, approximately thirty-five percent of state and county employees participate in the Plan. The Plan's Board of Trustees ("Board") is concerned about the Plan's low participation rate because industry experts and financial consultants believe that relying on retirement income from an employee's pension (i.e., the ERS) and SS alone may not be sufficient to keep up with rising inflation costs. Thus, to assist employees in taking advantage of this important employee benefit and saving more for retirement, the Board proposes to automatically enroll all new state and participating county employees into the Plan. To accomplish this, the bill proposes to deduct one percent of each employee's

gross monthly wages and deposit it into a default investment option selected by the Board.

However, the bill also provides flexibility to those employees who do not want to participate in the Plan by allowing these employees to opt out of the Plan within ninety calendar days after being automatically enrolled into the Plan. Employees who timely opt out of the Plan shall receive their contributions without a penalty, subject to changing market prices and the payment of all applicable federal and state taxes.

To allow the State, participating counties, and future employees to prepare for and adjust to this new requirement, this bill has a delayed effective date of July 1, 2009.

The bill's other amendments are non-substantive, and are made for the purposes of consistency, style, and clarity.

Impact on the public: None.

Impact on the department and other agencies: All state agencies. The State of Hawaii Deferred Compensation Board will draft explanatory brochures and notices outlining the automatic enrollment feature of the deferred compensation plan. The personnel departments of the state agencies will be responsible for making the information available to new hires.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Counties of Hawaii, Maui, and Kauai.

HB 3144

EFFECTIVE DATE: July 1, 2009.