A BILL FOR AN ACT

RELATING TO SEPARATION BENEFITS.

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

PART I

SECTION 1. The purpose of this part is to provide options to assist public employees who may be displaced through the privatization or closure of a state or county facility and reduce the need for layoffs. Specifically, this Act authorizes the state executive branch and other jurisdictions to offer a severance or a special retirement benefit to its employees who elect to separate from service when their positions are identified for abolishment or when they are directly affected by a reduction-in-force or workforce restructuring plan, including privatization.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

SEPARATION BENEFITS

§ -1 Definitions. For the purposes of this chapter:
"Actuarial present value" means the difference in value between a member's benefit reflecting termination of service without the special retirement provision and the value of the member's benefit reflecting the special retirement benefit.

"Agency" or "attached agency" means a political subdivision of state or county government that is administratively attached to a department of state or county government.

"Directly affected" refers to when an employee receives official reduction-in-force notification of displacement from the employee's position because of a senior employee exercising reduction-in-force rights, or because the employee's position is part of a workforce restructuring plan, including privatization.

"Employee" means an individual employed by the state or county government or those governments' attached agencies in a position subject to chapter 88, which has been identified for abolishment or directly affected because of a reduction-in-force or workforce restructuring plan, including privatization.

"Other jurisdictions" means the city and county of Honolulu, the county of Hawaii, the county of Maui, the county of Kauai, the department of education, the judiciary, the Hawaii
health systems corporation, the office of Hawaiian affairs, and
the legislative branches of the state and county governments.
"Reduction-in-force" includes layoffs under chapter 76 or
89.
"State executive branch" includes the University of Hawaii,
but excludes the Hawaii health systems corporation and the
department of education, which are considered separate personnel
jurisdictions under this chapter.
§ -2 Severance benefit. (a) Any employee who:
(1) Retires;
(2) After terminating their employment with the state,
leaves retirement contributions in the employees'
retirement system, until the employee is eligible for
retirement;
(3) Withdraws the partial actuarial value of their
retirement contributions from the employees'
retirement system and reinvests the withdrawn amounts
in another retirement account or qualified plan; or
(4) Is directly affected by Act 103, Session Laws of
Hawaii 2015, regarding the Hawaii health systems
corporation, and
(A) Is entitled to reduction-in-force rights under chapter 76 or 89;

(B) Is not eligible for retirement, early retirement, or cash out the actuarial value of the employee's retirement contributions in the employees' retirement system; and

(C) Receives official notification that the employee's position is being abolished and has not received an offer of continued employment with the successor entity selected as a result of Act 103, Session Laws of Hawaii 2015, may elect to receive a severance benefit provided under this section in lieu of exercising any reduction-in-force rights under chapter 89 or 89C, as applicable, and in lieu of receiving any special retirement benefit under section -3; provided that the employee is not reemployed by the state or a successor entity for one year.

(b) A one-time lump sum cash bonus severance benefit shall be calculated at five per cent of the employee's base salary for every year of service worked, not to exceed ten years, and shall not exceed fifty per cent of the employee's annual base salary.
For the purposes of this section, "annual base salary" means an employee's annual salary for the position from which the employee is to be separated, excluding all other forms of compensation paid or accrued, whether a bonus, allowance, differential, or value of leave or compensatory time off credits. Compensation excluded from base salary includes shortage category differential, night shift differential, overtime, compensatory time off credits, vacation or sick leave credits, and workers' compensation benefits.

(c) A severance benefit shall be in addition to any payment owing to the employee upon separation from service, including accumulated unused vacation allowances or compensatory time credits.

(d) All severance benefits paid under this section shall be subject to applicable state income tax laws and rules.

(e) A severance benefit provided under this section shall not be considered as a part of a discharged employee's salary, service credit, or a cost item as defined in section 89-2 when calculating retirement benefits or sick and vacation leave.

§ -3 Special retirement benefit. (a) Notwithstanding section 88-99 or any other law to the contrary, the employees'
retirement system may provide, regardless of whether the
actuarial value of the system's assets is one hundred per cent
of the system's actuarial accrued liability, the benefits
authorized under this section. Any employee who receives
official notification that the employee's position is being
abolished or who is directly affected by a reduction-in-force or
workforce restructuring plan, including privatization, proposed
by a department may elect, if the employee is a vested member of
the employees' retirement system and meets any of the criteria
specified in subsection (c), the special retirement benefit
provided by this section in lieu of exercising any reduction-in-
force rights under chapter 89 or 89C, as applicable, and in lieu
of receiving any severance benefits under section -2. To
receive the special retirement benefit offered under this
section, the employee shall comply with the application and time
frame requirements specified in subsection (b).

(b) Any employee who elects to retire and receive the
special retirement benefit under this section shall notify the
employee's employing department and file a formal application
for retirement with the employees' retirement system not less
than thirty days or more than one hundred fifty days prior to
the date of retirement.

(c) Notwithstanding the age and length of service
requirements of sections 88-73, 88-281, and 88-331, an employee
shall qualify for the special retirement benefit if, on the
employee's retirement date, the employee meets any one of the
following criteria:

(1) Has at least ten years of credited service as a
contributory class A or B member and is at least fifty
years of age;

(2) Has at least twenty years of credited service as a
contributory class A or B member, irrespective of age;

(3) Has at least ten years of credited service as a
noncontributory class C member or as a class H member
and is at least fifty-seven years of age; or

(4) Has at least twenty-five years of credited service as
a noncontributory class C member or as a class H
member, irrespective of age.

(d) Any employee who exercises the option of the special
retirement benefit under this section because the employee does
not qualify with respect to the age and length of service
requirements under section 88-73, 88-281, or 88-331, to receive
a retirement benefit without penalty, shall not have the
retirement benefit reduced in accordance with the actuarial
formula normally used by the employees' retirement system for
the calculation of early retirement benefits.
(e) The head of each affected department or agency shall
transmit a list of employees who elected and received the
special retirement benefit to the board of trustees of the
employees' retirement system not less than thirty days but not
more than one hundred fifty days prior to the employee's
retirement date. The head of each affected department or agency
shall certify that the employees on the list have in fact
selected the special retirement benefit in lieu of receiving the
severance benefit and exercising any reduction-in-force rights
under chapter 89 or 89C, as applicable.
(f) The board of trustees of the employees' retirement
system shall make payments with respect to all eligible
employees who retire pursuant to this section. The board shall
determine the portion of the additional actuarial present value
of benefits to be charged to the State based upon retirements
authorized under this section. If necessary, the State shall
make additional payments to the employees' retirement system in
the amounts required to amortize the additional actuarial
present value of benefits over a period of five years. The
unfunded actuarial present values of benefits payable under this
section shall be considered part of the unfunded accrued
liability of the employees' retirement system under sections
88-122 and 88-123.
§ -4 Restrictions. No severance benefit or special
retirement benefit shall be payable to an employee discharged
for lawful disciplinary reasons or for reasons other than a
reduction-in-force or workforce restructuring plan.
§ -5 Reemployment. Any employee who has received either
a severance benefit or a special retirement benefit under this
chapter and returns to public service within two years as an
employee or contractor shall repay the severance benefit or the
special retirement benefit to the public employer or the
employees' retirement system, as the case may be, within thirty
days of reemployment with a public employer.
§ -6 Payments; lapse of unexpended funds. After
payments of all costs associated with the severance benefits and
special retirement benefits, the public employer's remaining
payroll balances shall not be expended for any purpose and shall be lapsed into the appropriate fund.

§ 7 Reporting requirements; reduction in personnel counts. The head of each affected department or agency that provided benefits under this chapter shall:

(1) Transmit a report of every position identified for abolishment and vacated under this chapter to the directors of finance and human resources development who shall abolish these positions from the appropriate budget and personnel files. The governor shall report this information to the legislature no later than twenty days prior to the convening of each regular session beginning with the regular session of 2017;

(2) Reduce its personnel count by every position identified for abolishment and vacated under this chapter, whether the former incumbent vacated the position as a result of accepting a severance benefit or special retirement benefit authorized under this chapter or of exercising reduction-in-force rights; and
(3) Transmit a list that includes each employee who received benefits under this chapter and the benefit received by the employee to the directors of finance and human resources development.

§ -8 Guidelines; development and administration. The departments of human resources development and budget and finance shall develop and administer guidelines and time frames with the affected public employee unions to implement the voluntary separation benefits and special retirement benefits under this chapter. The department of human resources development, the department of labor and industrial relations, the employees' retirement system, and the Hawaii employer-union health benefits trust fund shall work cooperatively to ensure that briefings are provided prior to the implementation of any workforce restructuring plan to educate the employees of the various departments of the state executive branch, whose positions are being abolished or who are directly affected by a reduction-in-force or workforce restructuring plan.

The department of human resources development and the department of budget and finance shall report to the legislature on any restructuring activities initiated because of this
chapter no later than twenty days prior to the convening of each regular session beginning with the regular session of 2017. The report shall include a description of the abolished positions, an explanation as to how the new workforce structure, including resulting service delivery changes, will more efficiently serve the needs of the agency's clients, the cost of the benefit per participant, and the total cost to the State.

§ -9 Matching funds. The governor may provide funds to obtain matching federal moneys to retrain employees in the state executive branch who separated from service under this chapter.

§ -10 Optional participation by other jurisdictions. The city and county of Honolulu, the county of Hawaii, the county of Kauai, the county of Maui, the department of education, the judiciary, the Hawaii health systems corporation, the office of Hawaiian affairs, or the legislative branch of the State or a county may opt to provide the severance benefit under section -2 or the special retirement benefit under section -3 to their respective employees under an official reduction-in-force or a workforce restructuring plan as defined by its separation incentives program guidelines and time frames developed and administered by the respective jurisdictions.
No civil service employee may elect and receive a combination of reduction-in-force, severance benefit, or special retirement benefit when directly affected by a reduction in-force or workforce restructuring plan. Whenever any of the other jurisdictions, as defined in section -1, opts to provide the severance benefit or special retirement benefit, the jurisdiction’s separation benefit guidelines and use of the special retirement benefit shall be consistent with this chapter.

All references to the state executive branch shall apply to any other jurisdictions, as defined in section -1, opting to provide the severance benefit or the special retirement benefit. The chief executive or other appropriate authority of each of the respective other jurisdictions shall ensure that approval of its respective legislative body is obtained before offering the severance benefit under section -2 or the special retirement benefit under section -3.

§ -11 Payments to the Hawaii employer-union health benefits trust fund. Payments for a severance benefit or a special retirement benefit may be deposited into an account at the Hawaii employer-union health benefits trust fund. The
Hawaii employer-union health benefits trust fund shall credit
the monthly premium cost for health care coverage against that
account for the employee who receives either a severance benefit
or a special retirement benefit.

§ -12 Review by employee. Employees offered a severance
benefit or a special retirement benefit shall be given
sufficient time to make an informed decision from the date of
receiving accurate and complete information about the offer."

PART II

SECTION 3. State contributions; Hawaii health system
corporation employees hired after June 30, 2001, and retired.
(a) This section shall apply to state contributions to the
Hawaii employer-union health benefits trust fund for Hawaii
health systems corporation employees hired after June 30, 2001,
and who were separated from service as a result of Act 103,
Session Laws of Hawaii 2015.
(b) The State, through the department of budget and
finance, shall pay to the Hawaii employer-union health benefits
trust fund:
(1) For retired employees based on the self plan with ten
or more years but fewer than fifteen years of service,
a monthly contribution equal to one-half of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b), Hawaii Revised Statutes;

(2) For retired employees based on the self plan with at least fifteen but fewer than twenty years of service, a monthly contribution equal to seventy-five per cent of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b), Hawaii Revised Statutes;

(3) For retired employees based on the self plan with twenty or more years of service, a monthly contribution equal to one hundred per cent of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b), Hawaii Revised Statutes; and

(4) One-half of the monthly contributions for the employee-beneficiary or employee-beneficiary with dependent-beneficiaries upon the death of the employee, as defined in paragraph (1)(E) of the
PART III

SECTION 4. This Act shall take effect on July 1, 2091, and shall be repealed on July 1, 2018.
Report Title:
ERS; Public Employees; Separation Benefits; Early Retirement; EUTF

Description:
Authorizes public employees facing position abolishment, reduction-in-force, or workforce restructuring to opt to receive either severance benefits or a special retirement benefit in lieu of exercising any reduction-in-force rights. Requires the State to pay a monthly contribution for employees separated from service as a result of Act 103, Session Laws of Hawaii 2015. Sunsets on July 1, 2018. (SB2077 HD1)

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