
A BILL FOR AN ACT

RELATING TO SEPARATION BENEFITS.

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

1 PART I

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

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

15 "CHAPTER

16 SEPARATION BENEFITS

17 § -1 Definitions. For the purposes of this chapter:



1 "Actuarial present value" means the difference in value
2 between a member's benefit reflecting termination of service
3 without the special retirement provision and the value of the
4 member's benefit reflecting the special retirement benefit.

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

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

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

18 "Other jurisdictions" means the city and county of
19 Honolulu, the county of Hawaii, the county of Maui, the county
20 of Kauai, the department of education, the judiciary, the Hawaii



1 health systems corporation, the office of Hawaiian affairs, and
2 the legislative branches of the state and county governments.

3 "Reduction-in-force" includes layoffs under chapter 76 or
4 89.

5 "State executive branch" includes the University of Hawaii,
6 but excludes the Hawaii health systems corporation and the
7 department of education, which are considered separate personnel
8 jurisdictions under this chapter.

9 § -2 **Severance benefit.** (a) Any employee who:

10 (1) Retires;

11 (2) After terminating their employment with the state,
12 leaves retirement contributions in the employees'
13 retirement system, until the employee is eligible for
14 retirement;

15 (3) Withdraws the partial actuarial value of their
16 retirement contributions from the employees'
17 retirement system and reinvests the withdrawn amounts
18 in another retirement account or qualified plan; or

19 (4) Is directly affected by Act 103, Session Laws of
20 Hawaii 2015, regarding the Hawaii health systems
21 corporation, and



1 (A) Is entitled to reduction-in-force rights under
2 chapter 76 or 89;

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

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

18 (b) A one-time lump sum cash bonus severance benefit shall
19 be calculated at five per cent of the employee's base salary for
20 every year of service worked, not to exceed ten years, and shall
21 not exceed fifty per cent of the employee's annual base salary.



1 For the purposes of this section, "annual base salary"
2 means an employee's annual salary for the position from which
3 the employee is to be separated, excluding all other forms of
4 compensation paid or accrued, whether a bonus, allowance,
5 differential, or value of leave or compensatory time off
6 credits. Compensation excluded from base salary includes
7 shortage category differential, night shift differential,
8 overtime, compensatory time off credits, vacation or sick leave
9 credits, and workers' compensation benefits.

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

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

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

20 **§ -3 Special retirement benefit.** (a) Notwithstanding
21 section 88-99 or any other law to the contrary, the employees'



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

17 (b) Any employee who elects to retire and receive the
18 special retirement benefit under this section shall notify the
19 employee's employing department and file a formal application
20 for retirement with the employees' retirement system not less



1 than thirty days or more than one hundred fifty days prior to
2 the date of retirement.

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

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

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

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

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

19 (d) Any employee who exercises the option of the special
20 retirement benefit under this section because the employee does
21 not qualify with respect to the age and length of service



1 requirements under section 88-73, 88-281, or 88-331, to receive
2 a retirement benefit without penalty, shall not have the
3 retirement benefit reduced in accordance with the actuarial
4 formula normally used by the employees' retirement system for
5 the calculation of early retirement benefits.

6 (e) The head of each affected department or agency shall
7 transmit a list of employees who elected and received the
8 special retirement benefit to the board of trustees of the
9 employees' retirement system not less than thirty days but not
10 more than one hundred fifty days prior to the employee's
11 retirement date. The head of each affected department or agency
12 shall certify that the employees on the list have in fact
13 selected the special retirement benefit in lieu of receiving the
14 severance benefit and exercising any reduction-in-force rights
15 under chapter 89 or 89C, as applicable.

16 (f) The board of trustees of the employees' retirement
17 system shall make payments with respect to all eligible
18 employees who retire pursuant to this section. The board shall
19 determine the portion of the additional actuarial present value
20 of benefits to be charged to the State based upon retirements
21 authorized under this section. If necessary, the State shall



1 make additional payments to the employees' retirement system in
2 the amounts required to amortize the additional actuarial
3 present value of benefits over a period of five years. The
4 unfunded actuarial present values of benefits payable under this
5 section shall be considered part of the unfunded accrued
6 liability of the employees' retirement system under sections
7 88-122 and 88-123.

8 **§ -4 Restrictions.** No severance benefit or special
9 retirement benefit shall be payable to an employee discharged
10 for lawful disciplinary reasons or for reasons other than a
11 reduction-in-force or workforce restructuring plan.

12 **§ -5 Reemployment.** Any employee who has received either
13 a severance benefit or a special retirement benefit under this
14 chapter and returns to public service within two years as an
15 employee or contractor shall repay the severance benefit or the
16 special retirement benefit to the public employer or the
17 employees' retirement system, as the case may be, within thirty
18 days of reemployment with a public employer.

19 **§ -6 Payments; lapse of unexpended funds.** After
20 payments of all costs associated with the severance benefits and
21 special retirement benefits, the public employer's remaining



1 payroll balances shall not be expended for any purpose and shall
2 be lapsed into the appropriate fund.

3 **§ -7 Reporting requirements; reduction in personnel**

4 **counts.** The head of each affected department or agency that
5 provided benefits under this chapter shall:

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

14 (2) Reduce its personnel count by every position
15 identified for abolishment and vacated under this
16 chapter, whether the former incumbent vacated the
17 position as a result of accepting a severance benefit
18 or special retirement benefit authorized under this
19 chapter or of exercising reduction-in-force rights;
20 and



1 (3) Transmit a list that includes each employee who
2 received benefits under this chapter and the benefit
3 received by the employee to the directors of finance
4 and human resources development.

5 **§ -8 Guidelines; development and administration.** The
6 departments of human resources development and budget and
7 finance shall develop and administer guidelines and time frames
8 with the affected public employee unions to implement the
9 voluntary separation benefits and special retirement benefits
10 under this chapter. The department of human resources
11 development, the department of labor and industrial relations,
12 the employees' retirement system, and the Hawaii employer-union
13 health benefits trust fund shall work cooperatively to ensure
14 that briefings are provided prior to the implementation of any
15 workforce restructuring plan to educate the employees of the
16 various departments of the state executive branch, whose
17 positions are being abolished or who are directly affected by a
18 reduction-in-force or workforce restructuring plan.

19 The department of human resources development and the
20 department of budget and finance shall report to the legislature
21 on any restructuring activities initiated because of this



1 chapter no later than twenty days prior to the convening of each
2 regular session beginning with the regular session of 2017.

3 The report shall include a description of the abolished
4 positions, an explanation as to how the new workforce structure,
5 including resulting service delivery changes, will more
6 efficiently serve the needs of the agency's clients, the cost of
7 the benefit per participant, and the total cost to the State.

8 § -9 **Matching funds.** The governor may provide funds to
9 obtain matching federal moneys to retrain employees in the state
10 executive branch who separated from service under this chapter.

11 § -10 **Optional participation by other jurisdictions.**

12 The city and county of Honolulu, the county of Hawaii, the
13 county of Kauai, the county of Maui, the department of
14 education, the judiciary, the Hawaii health systems corporation,
15 the office of Hawaiian affairs, or the legislative branch of the
16 State or a county may opt to provide the severance benefit under
17 section -2 or the special retirement benefit under section

18 -3 to their respective employees under an official reduction-
19 in-force or a workforce restructuring plan as defined by its
20 separation incentives program guidelines and time frames
21 developed and administered by the respective jurisdictions.



1 No civil service employee may elect and receive a
2 combination of reduction-in force, severance benefit, or special
3 retirement benefit when directly affected by a reduction in-
4 force or workforce restructuring plan. Whenever any of the
5 other jurisdictions, as defined in section -1, opts to
6 provide the severance benefit or special retirement benefit, the
7 jurisdiction's separation benefit guidelines and use of the
8 special retirement benefit shall be consistent with this
9 chapter.

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

18 **§ -11 Payments to the Hawaii employer-union health**
19 **benefits trust fund.** Payments for a severance benefit or a
20 special retirement benefit may be deposited into an account at
21 the Hawaii employer-union health benefits trust fund. The



1 Hawaii employer-union health benefits trust fund shall credit
2 the monthly premium cost for health care coverage against that
3 account for the employee who receives either a severance benefit
4 or a special retirement benefit.

5 § -12 Review by employee. Employees offered a severance
6 benefit or a special retirement benefit shall be given
7 sufficient time to make an informed decision from the date of
8 receiving accurate and complete information about the offer."

9 PART II

10 SECTION 3. State contributions; Hawaii health system
11 corporation employees hired after June 30, 2001, and retired.

12 (a) This section shall apply to state contributions to the
13 Hawaii employer-union health benefits trust fund for Hawaii
14 health systems corporation employees hired after June 30, 2001,
15 and who were separated from service as a result of Act 103,
16 Session Laws of Hawaii 2015.

17 (b) The State, through the department of budget and
18 finance, shall pay to the Hawaii employer-union health benefits
19 trust fund:

20 (1) For retired employees based on the self plan with ten
21 or more years but fewer than fifteen years of service,



1 a monthly contribution equal to one-half of the base
2 medicare or non-medicare monthly contribution set
3 forth under section 87A-33(b), Hawaii Revised
4 Statutes;

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

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

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



1 definition of "employee" in section 87A-1, Hawaii
2 Revised Statutes.

3 PART III

4 SECTION 4. This Act shall take effect on July 1, 2091, and
5 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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