



GOV. MSG. NO. 1338

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 11, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker  
and Members of the House  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

I am transmitting herewith SB2077 SD1 HD2 CD2, without my approval, and with the statement of objections relating to the measure.

SB2077 SD1 HD2 CD2

RELATING TO SEPARATION BENEFITS

Sincerely,

DAVID Y. IGE  
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

JULY 11, 2016

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2077

Honorable Members  
Twenty-Eighth Legislature  
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I return herewith, without my approval, Senate Bill No. 2077, entitled "A Bill for an Act Relating to Separation Benefits."<sup>1</sup>

On July 8, 2016, the Employees' Retirement System (ERS) informed me that its tax counsel advised that the bill jeopardizes ERS's tax-qualified status because it allows the affected employees to choose between a lump-sum cash payment that is taxable as wages and a special employer subsidized early retirement benefit. See Attachment A (Memo from ERS Executive Director Thomas Williams to Director of Budget and Finance Wesley Machida). Under the Internal Revenue Code sections governing the state ERS plan, this is an impermissible election and threatens the plan's tax-exempt status. I will neither approve this bill nor let it become law when the offering

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<sup>1</sup> The stated purpose of this bill is to assist public employees displaced through the privatization or closure of a Hawaii Health Systems Corporation (HHSC) facility. The bill adds a chapter to the Hawaii Revised Statutes that establishes a new benefit program specifically for state employees included in a collective bargaining unit under Chapter 89, Hawaii Revised Statutes, whose positions are abolished or who are adversely affected by a reduction-in-force or a workforce restructuring plan because of the closure of three HHSC Maui Region facilities that are slated to be closed under Act 103, Session Laws of Hawaii 2015. Employees may choose between continuing state employment by exercising reduction-in-force rights, or leaving state service and receiving a severance payment equal to five per cent of the employee's then current annual base salary for every year worked up to ten years, when the facilities are closed. Some employees may also choose between receiving the severance payment or retiring without penalties, under age and length of service thresholds significantly lower than the thresholds prescribed in Chapter 88, Hawaii Revised Statutes, the Employees' Retirement System law. The bill also allows the employees to receive contributions from the State toward their health benefit plan premiums as retirees, with fewer years of service than presently specified in Chapter 87A, Hawaii Revised Statutes, the Employer-Union Health Benefits Trust Fund (EUTF) law.

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 2077  
Page 2

of benefit choices included in the bill poses this threat.

The bill also allows employees separated from service to claim a lump-sum cash severance payment but does not appropriate funds to make the payments. The bill appears to assume that the severance payments will be made out of the Maui Region's payroll appropriation for fiscal year 2016-2017. However, under Section 16.2 of Act 124, Session Laws of Hawaii 2016, if the three HHSC Maui Region facilities are closed and leased to the Maui Health System, a Kaiser Foundation Hospitals LLC (Kaiser), all of the appropriations for the Maui Region in Act 124, except those necessary to wind down the operations of the Maui Region hospitals, are to be disbursed to Kaiser. There is no fiscal year 2016-2017 payroll appropriation for the Maui Region.

In addition to the legal defects above, the bill's calculated fiscal impact is substantial. If all of the employees entitled to claim the lump-sum cash severance payment did so, the cost could be as much as \$32 million. The early retirement benefit has been determined by the ERS Actuary (using the 2015 valuation data) to cost an additional \$17.2 million.<sup>2</sup> The State would also have to pay \$18.4 million in estimated enhanced health benefits to the EUTF for retirees. The total cost of all benefits provided under this bill is thus estimated to exceed \$60 million, excluding the fringe benefit assessment on the severance benefit.

Despite these grave reservations concerning the bill, I acknowledge the Legislature's and my own responsibility to temper the adverse effect of layoffs resulting from the passage of Act 103, Session Laws of Hawaii 2015 (Act 103). In taking steps to provide more cost-effective and better overall healthcare at the Maui Region facilities in

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<sup>2</sup> The State's employer contribution cost for the retirement benefits for these employees for this fiscal year for the projected 26 year funding period would total \$179 million over a 26-year period. I believe the \$17.2 million needed to provide the special retirement benefit the bill undercuts the concerted effort the Legislature made in 2011 when it enacted Section 88-99, Hawaii Revised Statutes, which placed a moratorium on enhanced benefits to reduce the ERS' unfunded liability.

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 2077  
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the future, we should recognize the employees who served these facilities over the past decades and who will now be separating from public service. The attached proposed amended bill addresses the concerns stated herein. See Attachment B. It eliminates the offering of benefit choices. It instead provides for a negotiated separation benefit to all affected employees upon leaving state employment. It creates a one-time opportunity for employees who separate early to purchase the service credit they could have earned through June 30, 2017, and provides an appropriation of general funds in the amount of \$25 million.

To minimize future demands for separation benefits, the benefits this bill confers on HHSC employees are not codified and included as a statutory chapter of the Hawaii Revised Statutes, but provided instead, by means of a session law that will be repealed after Act 103 has been fully implemented. This emphasizes that these benefits have been fashioned for the unique circumstances presented in Act 103. While I agree that most lay-offs have adverse effects, I am not convinced that every lay-off under the civil service laws and collective bargaining contracts requires, or warrants the provision of severance, or retirement and health plan benefits for the employees who are laid off. Because lay-offs constitute a condition of work, and benefits to temper their adverse effects are provided in the form of compensation or benefits, relying on collective bargaining and cost-items, rather than a statutory formula to devise benefits to counter a lay-off's adverse effects could be more appropriate and cost-effective. It would allow room for the executive and the legislative branches in the future to consider the programmatic, socio-economic, geographic and fiscal context of each layoff and propose alternatives for tempering its particular expected effects at the proper time.

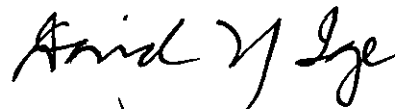
In closing, regarding the transition up to now, I understand only 191 out of 1,233 employees exercised reduction-in-force (RIF) rights during the HHSC-initiated RIF process in February of this year. I also understand that by the middle of May of this year, Kaiser had offered jobs to 1,538 HHSC Maui Region civil service and exempt

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SENATE BILL NO. 2077  
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employees, irrespective of whether they were included in a collective bargaining unit or worked for the State for less than a year, and more than 95 percent of the employees had accepted Kaiser's offer of employment. I also understand that Kaiser will pay most employees, salaries or wages equal to what the employees are presently paid by HHSC. This suggests to me that a substantial number if not majority of HHSC's Maui Region employees might not have to face the economic hardships to the degree that prompted the Legislature to consider and pass the current bill.

For the foregoing reasons, I am returning Senate Bill No. 2077 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "David Y. Ige". The signature is fluid and cursive, with a large, sweeping flourish at the end.

DAVID Y. IGE  
Governor of Hawai'i

# ATTACHMENT A

DAVID Y. IGE  
GOVERNOR



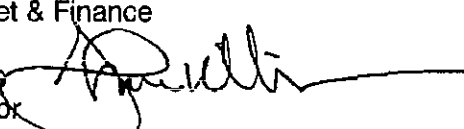
THOMAS WILLIAMS  
EXECUTIVE DIRECTOR

KANOE MARGOL  
DEPUTY EXECUTIVE DIRECTOR

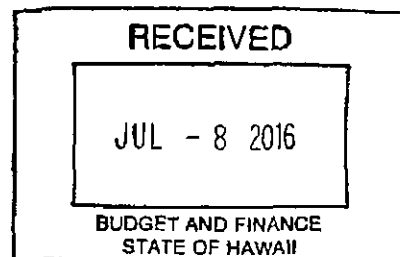
## STATE OF HAWAII EMPLOYEES' RETIREMENT SYSTEM

July 7, 2016

TO: Wesley Machida  
Director of Budget & Finance

FROM: Thomas Williams   
Executive Director  
Employees' Retirement System of the State of Hawaii

RE: SB 2077



The Board of the Employees' Retirement System (ERS) has strongly recommended that Governor Ige veto SB 2077.

Primary amongst the Board's concern was the negative impact of this bill's provisions on the \$8.77 billion unfunded liability of the System.

The expected cost of the bill's special retirement benefit is \$17.2 million and the severance benefit is approximately \$30.5 million for a total of \$47.7 million. Significantly, there is no provision for the funding of either component.

Further, the bill ignores Section 88-99 HRS which precludes provision of any enhancement of retirement benefits until the actuarial value of the System's assets is 100%. As noted above, we are far from that goal.

More importantly, with public policy decisions aside, the bill will jeopardize ERS' tax qualified status.

At my request, outside counsel has examined the implications of the bill and has determined that the offer to affected employees of a "cash or deferred arrangement", which the severance benefit and special retirement benefit represents, constitutes an impermissible election under the Internal Revenue Code sections governing our plan. Counsel consequently concluded that the offering of the benefit choices included in the bill poses a threat to our tax-exempt status.

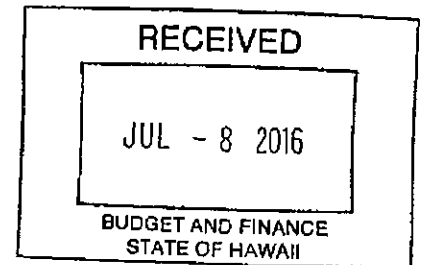
Counsel's letter is attached for your reference. Please let me know if you have questions or concerns.



Employees' Retirement System  
of the State of Hawaii

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Telephone (808) 586-1735 • Fax (808) 586-1677 • <http://ers.hawaii.gov>

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[tmaloney@benefitslawyers.com](mailto:tmaloney@benefitslawyers.com)



July 7, 2016

Mr. Thomas Williams  
Executive Director  
Employees' Retirement System of the State of Hawaii  
201 Merchant Street, Suite 1400  
Honolulu, Hawaii 96813-2980

Re: Federal Tax-Qualification Issue with SB2077

Dear Thom:

We have reviewed SB2077, as passed by the Legislature this year. We conclude that SB2077 provides an impermissible "cash or deferred election," which would jeopardize the tax-qualified status of the Employees' Retirement System of the State of Hawaii (the "ERS"). Our analysis is as follows:

SB2077

SB2077 offers certain public employees whose employment is subject to Act 103, Session Laws of Hawaii 2015, an election to choose between a voluntary severance benefit and a special subsidized retirement benefit. The voluntary severance benefit would be currently taxable as wages. See 2016 General Instructions for Forms W-2 and W-3, p.4 ("Severance payments are wages subject to social security and Medicare taxes. . . . [S]everance payments are also subject to income tax withholding and FUTA tax.")

Federal Tax-Qualification Rules Applicable to the ERS

The ERS is a governmental defined benefit pension plan that must meet the requirements of section 401(a) of the Internal Revenue Code (the "Code") to maintain its status as a tax-qualified plan. The ERS would not meet the requirements of section 401(a) of the Code if it offered a "cash or deferred arrangement" because it is both a defined benefit pension plan and a governmental plan. Code § 401(k)(1) (specifying the type of plans that may offer "cash or deferred arrangements"); Treas. Reg. § 1.401(k)-1(a)(1) ("A plan, other than a profit-sharing, stock bonus, pre-ERISA money purchase pension, or rural cooperative plan, does not satisfy the requirements of section 401(a) if the plan includes a cash or deferred arrangement."); see also

Mr. Thomas Williams  
Executive Director  
Employees' Retirement System of the State of Hawaii  
July 7, 2016  
Page 2

Code § 401(k)(4)(B)(ii) (stating that a governmental plan may not offer a qualified cash or deferred arrangement).

A "cash or deferred arrangement" is "an arrangement under which an eligible employee may make a cash or deferred election with respect to contributions to, or accruals or other benefits under, a plan that is intended to satisfy the requirements of section 401(a) [of the Code]." Treas. Reg. § 1.401(k)-1(a)(2)(i) (emphasis added).

A "cash or deferred election" is:

any direct or indirect election (or modification of an earlier election) by an employee to have the employer either—

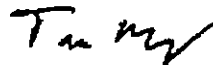
- (A) Provide an amount to the employee in the form of cash (or some other taxable benefit) that is not currently available; or
- (B) Contribute an amount to a trust, or provide an accrual or other benefit, under a plan deferring the receipt of compensation.

Treas. Reg. § 1.401(k)-1(a)(3)(i) (emphasis added).

Since SB2077, as passed by the Legislature, offers an election between a severance benefit taxable as wages and a special subsidized retirement benefit, it offers an impermissible cash or deferred election. This would jeopardize the ERS's tax-qualified status.

Sincerely,

D'AMATO & MALONEY, LLP



J. Thomas Maloney, Jr.

IRS Circular 230 Disclosure: To ensure compliance with the requirements imposed on us by IRS Circular 230 (31 C.F.R. part 10), we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding tax-related penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any tax-related matter(s) addressed herein.



THE SENATE  
TWENTY-EIGHTH LEGISLATURE, 2016  
STATE OF HAWAII

S.B. NO. 2077  
S.D. 1  
H.D. 2  
C.D. 3

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# A BILL FOR AN ACT

RELATING TO SEPARATION BENEFITS.

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

1           SECTION 1. The purpose of this Act is to provide  
2 separation benefits to employees of Maui regional system  
3 facilities due to the closure and transfer of these facilities  
4 and their lease to Maui Health System, a Kaiser Foundation  
5 Hospitals LLC, pursuant to Act 103, Session Laws of Hawaii 2015.  
6 Specifically, this Act recognizes the authority of the State of  
7 Hawaii, the Hawaii health systems corporation, and the exclusive  
8 representatives of affected employees to negotiate separation  
9 benefits through supplemental agreements to existing collective  
10 bargaining agreements pursuant to section 89-9, Hawaii Revised  
11 Statutes, to address the effects of separation from state  
12 employment. Further, this Act authorizes the Hawaii health  
13 systems corporation to pay separation benefits to Maui regional  
14 system employees based upon these supplemental agreements for  
15 the purposes of tempering the adverse effects on affected  
16 employees, as a result of the implementation of Act 103, Session  
17 Laws of Hawaii 2015. Finally, this Act makes an appropriation  
18 to the department of budget and finance for allocation to the

1 Hawaii health systems corporation for the costs of supplemental  
2 agreements including separation benefits.

3 SECTION 2. As used in this Act:

4 "Affected employee" means an individual who is:

5 (1) Employed by an agency or attached agency in a  
6 position subject to chapters 88 and 89;

7 (2) Separated from service on or before June 30,  
8 2017, as a result of the implementation of Act  
9 103, Session Laws of Hawaii 2015; and

10 (3) Subject to Act 103, Session Laws of Hawaii 2015.

11 "Agency" or "attached agency" means the Hawaii health  
12 systems corporation.

13 "Exclusive representative" has the same meaning as  
14 defined in section 89-2, Hawaii Revised Statutes.

15 SECTION 3. The State of Hawaii, the Hawaii health systems  
16 corporation, and the exclusive representatives of the affected  
17 employees may negotiate separation benefits for the affected  
18 employees through supplemental agreements to existing collective  
19 bargaining agreements that expire on June 30, 2017, for the  
20 purposes of tempering the adverse effects of Act 103, Session  
21 Laws of Hawaii 2015, on affected employees.

22 SECTION 4. The Hawaii health systems corporation, through  
23 its authority as the employer for Maui regional system

1 facilities, shall provide separation benefits to affected  
2 employees based upon supplemental agreements negotiated in  
3 Section 3, upon the affected employee's separation from state  
4 employment as a result of Act 103, Session Laws of Hawaii 2015.

5 SECTION 5. Notwithstanding section 88-99, Hawaii Revised  
6 Statutes, or any other provision of law to the contrary, any  
7 affected employee who chooses to receive separation benefits may  
8 purchase non-earned service credits with the employees'  
9 retirement system of the State of Hawaii pursuant to chapter 88,  
10 Hawaii Revised Statutes. An affected employee may only purchase  
11 the amount of service credit they could have earned between the  
12 transfer completion date as defined in section 323F-51, Hawaii  
13 Revised Statutes, through June 30, 2017. No purchase of service  
14 credit under this section may be made by deduction from the  
15 affected employee's compensation pursuant to section 414(h)(2)  
16 of the Internal Revenue Code of 1986, as amended, under the  
17 employer pick up plan in section 88-46, Hawaii Revised Statutes.  
18 Any purchase of service credit under this Section 5 must comply  
19 with the limitations on nonqualified service credit under  
20 section 415(n)(3)(B) of the Internal Revenue Code of 1986, as  
21 amended.

22 SECTION 6. There is appropriated from the general revenues  
23 of the State of Hawaii, \$25,000,000, or so much thereof as may

1 be necessary, for fiscal year 2016-2017 to carry out the  
2 purposes of this Act, including to provide separation benefits  
3 and related fringe costs for affected employees pursuant to  
4 negotiated supplemental agreements to current collective  
5 bargaining agreements expiring on June 30, 2017.

6 The sum appropriated by this Act shall be expended by the  
7 department of budget and finance, and allotted by the director  
8 of finance to the Hawaii health systems corporation for the  
9 purposes of this Act; provided that funds not expended or  
10 encumbered by June 30, 2017, shall lapse to the general fund.

11 SECTION 7. If any provision of this Act or the application  
12 thereof to any person or circumstance is held invalid, the  
13 invalidity shall not affect the other provisions or application  
14 of this Act that can be given effect without the invalid  
15 provision or application, and to this end the provisions of this  
16 Act are severable.

17 SECTION 8. This Act shall take effect upon its approval  
18 and shall be repealed on July 1, 2017.

**Report Title:**

Separation Benefits; Maui Region Employees; Appropriation

**Description:**

To provide authority for payment of separation benefits to affected employees of Maui regional system facilities pursuant to Act 103, SLH 2015. Makes appropriation for separation benefits and related costs in fiscal year 2016-17. (CD3)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

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# A BILL FOR AN ACT

RELATING TO SEPARATION BENEFITS.

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

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**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 Hawaii health systems corporation facility and reduce the need for layoffs. Specifically, this part authorizes the Hawaii health systems corporation to offer a severance or a special retirement benefit to an employee who elects to separate from service when the employee's position is identified for abolishment or when the employee is 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:



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 the Hawaii health  
6 systems corporation.

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

12 "Employee" means an individual:

- 13 (1) Employed by the state government or an attached agency  
14 in a position subject to chapters 88 and 89;
- 15 (2) Whose position has been identified for abolishment or  
16 directly affected because of a reduction-in-force or  
17 workforce restructuring plan, including privatization;  
18 and
- 19 (3) Whose employment is subject to Act 103, Session Laws  
20 of Hawaii 2015.



1 "Exclusive representative" has the same meaning as defined  
2 in section 89-2.

3 "Public employer" has the same meaning as defined in  
4 section 89-2.

5 "Reduction-in-force" includes layoffs under chapter 89.

6 § -2 Voluntary severance benefit. (a) Any employee  
7 entitled to reduction-in-force rights under chapter 89 and who  
8 receives official notification that the employee's position is  
9 being abolished or who is directly affected by a reduction-in-  
10 force or workforce restructuring plan, including privatization,  
11 may elect to receive a voluntary severance benefit provided  
12 under this section in lieu of exercising any reduction-in-force  
13 rights under chapter 89 and in lieu of receiving any special  
14 retirement benefit under section -3.

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

19 For the purposes of this section, "annual base salary"  
20 means an employee's annual salary for the position from which  
21 the employee is to be separated, excluding all other forms of





1 compensation paid or accrued, whether a bonus, allowance,  
2 differential, or value of leave or compensatory time off  
3 credits. Compensation excluded from base salary includes  
4 shortage category differential, night shift differential,  
5 overtime, compensatory time off credits, vacation or sick leave  
6 credits, and workers' compensation benefits.

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

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

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

17 § -3 **Special retirement benefit.** (a) Notwithstanding  
18 section 88-99 or any other law to the contrary, the employees'  
19 retirement system may provide, regardless of whether the  
20 actuarial value of the system's assets is one hundred per cent  
21 of the system's actuarial accrued liability, the benefits



1 authorized under this section. Any employee who receives  
 2 official notification that the employee's position is being  
 3 abolished or who is directly affected by a reduction-in-force or  
 4 workforce restructuring plan, including privatization, proposed  
 5 by an agency may elect, if the employee is eligible to receive  
 6 benefits from the employees' retirement system and meets any of  
 7 the criteria specified in subsection (c), the special retirement  
 8 benefit provided by this section in lieu of exercising any  
 9 reduction-in-force rights under chapter 89 and in lieu of  
 10 receiving any severance benefits under section -2. To  
 11 receive the special retirement benefit offered under this  
 12 section, the employee shall comply with the application and time  
 13 frame requirements specified in subsection (b).

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

20 (c) Notwithstanding the age and length of service  
 21 requirements of sections 88-73, 88-281, and 88-331, an employee



1 shall qualify for the special retirement benefit if, on the  
2 employee's retirement date, the employee meets any one of the  
3 following criteria:

- 4 (1) Has at least five years of credited service as a  
5 contributory class A or B member and is at least fifty  
6 years of age;
- 7 (2) Has at least twenty years of credited service as a  
8 contributory class A or B member, irrespective of age;
- 9 (3) Has at least ten years of credited service as a  
10 noncontributory class C member and is at least fifty-  
11 seven years of age;
- 12 (4) Has at least twenty-five years of credited service as  
13 a noncontributory class C member, irrespective of age;
- 14 (5) A class H member who became a member prior to July 1,  
15 2012, has at least five years of credited service and  
16 is at least fifty-seven years of age;
- 17 (6) A class H member who became a member prior to July 1,  
18 2012, and has at least twenty-five years of credited  
19 service, irrespective of age;



1 (7) A class H member who became a member after June 30,  
2 2012, has at least ten years of credited service and  
3 is at least sixty years of age; or

4 (8) A class H member who became a member after June 30,  
5 2012, has at least twenty-five years of credited  
6 service and is at least fifty-five years of age.

7 (d) Any employee who exercises the option of the special  
8 retirement benefit under this section because the employee does  
9 not qualify with respect to the age and length of service  
10 requirements under section 88-73, 88-281, or 88-331, to receive  
11 a retirement benefit without penalty, shall not have the  
12 retirement benefit reduced in accordance with the actuarial  
13 formula normally used by the employees' retirement system for  
14 the calculation of early retirement benefits.

15 (e) The head of the agency shall transmit a list of  
16 employees who elected and received the special retirement  
17 benefit to the board of trustees of the employees' retirement  
18 system not less than thirty days but not more than one hundred  
19 fifty days prior to the employee's retirement date. The head of  
20 the agency shall certify that the employees on the list have in  
21 fact selected the special retirement benefit in lieu of



1 receiving the severance benefit under section -2 and  
2 exercising any reduction-in-force rights under chapter 89.

3 (f) The board of trustees of the employees' retirement  
4 system shall make payments with respect to all eligible  
5 employees who retire pursuant to this section. The board shall  
6 determine the portion of the additional actuarial present value  
7 of benefits to be charged to the State based upon retirements  
8 authorized under this section. If necessary, the State shall  
9 make additional payments to the employees' retirement system in  
10 the amounts required to amortize the additional actuarial  
11 present value of benefits over a period of five years. The  
12 unfunded actuarial present values of benefits payable under this  
13 section shall be considered part of the unfunded accrued  
14 liability of the employees' retirement system under sections  
15 88-122 and 88-123.

16 § -4 Restrictions. No severance benefit or special  
17 retirement benefit under this chapter shall be payable to an  
18 employee discharged for lawful disciplinary reasons or for  
19 reasons other than a reduction-in-force or workforce  
20 restructuring plan.



1           §   -5 Reemployment. Any employee who has received either  
2 a severance benefit or a special retirement benefit under this  
3 chapter and returns to public service within two years as an  
4 employee or contractor shall repay the severance benefit or the  
5 special retirement benefit to the State or the employees'  
6 retirement system, as the case may be, within thirty days of  
7 reemployment with a public employer.

8           §   -6 Payments; lapse of unexpended funds. After  
9 payments of all costs associated with the severance benefits and  
10 special retirement benefits, the public employer's remaining  
11 payroll balances shall not be expended for any purpose and shall  
12 be lapsed into the appropriate fund.

13          §   -7 Reporting requirements; reduction in personnel  
14 counts. The head of the agency that provided benefits under  
15 this chapter shall:

16           (1) Transmit a report of every position identified for  
17               abolishment and vacated under this chapter to the  
18               directors of finance and human resources development,  
19               who shall abolish these positions from the appropriate  
20               budget and personnel files. The governor shall report  
21               this information to the legislature no later than



1           twenty days prior to the convening of each regular  
2           session beginning with the regular session of 2017;  
3       (2) Reduce its personnel count by every position  
4           identified for abolishment and vacated under this  
5           chapter, whether the former incumbent vacated the  
6           position as a result of accepting a severance benefit  
7           or special retirement benefit authorized under this  
8           chapter or of exercising reduction-in-force rights;  
9           and

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

14       § -8 Guidelines; development and administration. The  
15       departments of human resources development and budget and  
16       finance shall develop and administer guidelines and time frames  
17       with the exclusive representatives of affected public employees  
18       to implement the voluntary severance benefits and special  
19       retirement benefits under this chapter. The department of human  
20       resources development, the department of labor and industrial  
21       relations, the employees' retirement system, and the Hawaii



1 employer-union health benefits trust fund shall work  
2 cooperatively to ensure that briefings are provided prior to the  
3 implementation of any workforce restructuring plan to educate  
4 the employees whose positions are being abolished or who are  
5 directly affected by a reduction-in-force or workforce  
6 restructuring plan.

7       The department of human resources development and the  
8 department of budget and finance shall report to the legislature  
9 on any restructuring activities initiated as a consequence of  
10 this chapter no later than twenty days prior to the convening of  
11 each regular session beginning with the regular session of 2017.

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

17       § -9 **Matching funds.** The governor may provide funds to  
18 obtain matching federal moneys to retrain employees in the state  
19 executive branch who separated from service under this chapter.

20       § -10 **Review by employee.** Employees offered a severance  
21 benefit or a special retirement benefit shall be given





1 sufficient time to make an informed decision from the date of  
2 receiving accurate and complete information about the offer."

3 **PART II**

4 SECTION 3. State contributions; Hawaii health system  
5 corporation employees hired after June 30, 1996, and retired.

6 (a) This section shall apply to state contributions to the  
7 Hawaii employer-union health benefits trust fund for Hawaii  
8 health systems corporation employees hired after June 30, 1996,  
9 and who were separated from service as a result of Act 103,  
10 Session Laws of Hawaii 2015.

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

14 (1) For retired employees based on the self plan with at  
15 least nine years but fewer than twelve years of  
16 service, a monthly contribution equal to one-half of  
17 the base medicare or non-medicare monthly contribution  
18 set forth under section 87A-33(b), Hawaii Revised  
19 Statutes; provided that retired employees who were  
20 hired after June 30, 1996, but before July 1, 2001,  
21 with dependent-beneficiaries, as that term is defined



1 in section 87A-1, Hawaii Revised Statutes, shall be  
2 eligible for a monthly contribution equal to one-half  
3 of the base medicare or non-medicare monthly  
4 contribution for two-party or family plans, as  
5 applicable, set forth in section 87A-33(b), Hawaii  
6 Revised Statutes;

7 (2) For retired employees based on the self plan with at  
8 least twelve years but fewer than twenty years of  
9 service, a monthly contribution equal to seventy-five  
10 per cent of the base medicare or non-medicare monthly  
11 contribution set forth under section 87A-33(b), Hawaii  
12 Revised Statutes; provided that retired employees who  
13 were hired after June 30, 1996, but before July 1,  
14 2001, with dependent-beneficiaries, as that term is  
15 defined in section 87A-1, Hawaii Revised Statutes,  
16 shall be eligible for a monthly contribution equal to  
17 seventy-five per cent of the base medicare or non-  
18 medicare monthly contribution for two-party or family  
19 plans, as applicable, set forth in section 87A-33(b),  
20 Hawaii Revised Statutes;



1 (3) For retired employees based on the self plan with  
2 twenty or more years of service, a monthly  
3 contribution equal to one hundred per cent of the base  
4 medicare or non-medicare monthly contribution set  
5 forth under section 87A-33(b), Hawaii Revised  
6 Statutes; provided that retired employees who were  
7 hired after June 30, 1996, but before July 1, 2001,  
8 with dependent-beneficiaries, as that term is defined  
9 in section 87A-1, Hawaii Revised Statutes, shall be  
10 eligible for a monthly contribution equal to one  
11 hundred per cent of the base medicare or non-medicare  
12 monthly contribution for two-party or family plans, as  
13 applicable, set forth in section 87A-33(b), Hawaii  
14 Revised Statutes; and

15 (4) Upon the death of a retired employee hired after  
16 June 30, 1996, but before July 1, 2001, for the  
17 dependent-beneficiary who becomes eligible as an  
18 employee-beneficiary, a monthly contribution equal to  
19 paragraphs (1), (2), or (3), as applicable; and upon  
20 the death of a retired employee hired after June 30,  
21 2001, for the dependent-beneficiary who becomes



1 eligible as an employee-beneficiary, a monthly  
2 contribution equal to one-half of paragraphs (1), (2),  
3 or (3), as applicable.

4 PART III

5 SECTION 4. If any provision of this Act, or the  
6 application thereof to any person or circumstance, is held  
7 invalid, the invalidity does not affect other provisions or  
8 applications of the Act that can be given effect without the  
9 invalid provision or application, and to this end the provisions  
10 of this Act are severable.

11 SECTION 5. This Act shall take effect upon its approval,  
12 and shall apply to employees of the Hawaii health systems  
13 corporation who are separated from service as a consequence of  
14 Act 103, Session Laws of Hawaii 2015.

APPROVED this                      day of                      , 2016

GOVERNOR OF THE STATE OF HAWAII