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

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

14 "CHAPTER

15 SEPARATION BENEFITS

16 § -1 Definitions. For the purposes of this chapter:

17 "Actuarial present value" means the difference in value
18 between a member's benefit reflecting termination of service



1 without the special retirement provision and the value of the
2 member's benefit reflecting the special retirement benefit.

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

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

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

16 "Other jurisdictions" means the city and county of
17 Honolulu, the county of Hawaii, the county of Maui, the county
18 of Kauai, the department of education, the judiciary, the Hawaii
19 health systems corporation, the office of Hawaiian affairs, and
20 the legislative branches of the state and county governments.



1 "Reduction-in-force" includes layoffs under chapter 76 or
2 89.

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

7 "Vested member" means a member of the employees' retirement
8 system of the State of Hawaii who has sufficient credited
9 service to be eligible to receive the service retirement benefit
10 in effect under section 88-74, 88-282, or 88-332, upon becoming
11 eligible under section 88-73, 88-281, or 88-331, respectively,
12 to receive a retirement allowance.

13 § -2 **Voluntary severance benefit.** (a) Any employee
14 entitled to reduction-in-force rights under chapter 76 or 89 and
15 who receives official notification that the employee's position
16 is being abolished or who is directly affected by a reduction-
17 in-force or workforce restructuring plan, including
18 privatization, may elect to receive a voluntary severance
19 benefit provided under this section in lieu of exercising any
20 reduction-in-force rights under chapter 89 or 89C, as



1 applicable, and in lieu of receiving any special retirement
2 benefit under section -3.

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

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

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



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

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

9 § -3 Special retirement benefit. (a) Notwithstanding
10 section 88-99 or any other law to the contrary, the employees'
11 retirement system may provide, regardless of whether the
12 actuarial value of the system's assets is one hundred per cent
13 of the system's actuarial accrued liability, the benefits
14 authorized under this section. Any employee who receives
15 official notification that the employee's position is being
16 abolished or who is directly affected by a reduction-in-force or
17 workforce restructuring plan, including privatization, proposed
18 by a department may elect, if the employee is a vested member of
19 the employees' retirement system and meets any of the criteria
20 specified in subsection (c), the special retirement benefit
21 provided by this section in lieu of exercising any reduction-in-



1 force rights under chapter 89 or 89C, as applicable, and in lieu
2 of receiving any voluntary severance benefits under section

3 -2. To receive the special retirement benefit offered under
4 this section, the employee shall comply with the application and
5 time frame requirements specified in subsection (b).

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

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

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

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



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

4 (4) Has at least twenty-five years of credited service as
5 a noncontributory class C member or as a class H
6 member, irrespective 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 each affected department or agency shall
16 transmit a list of employees who elected and received the
17 special retirement benefit to the board of trustees of the
18 employees' retirement system not less than thirty days and not
19 more than one hundred fifty days prior to the employee's
20 retirement date. The head of each affected department or agency
21 shall certify that the employees on the list have selected the



1 special retirement benefit in lieu of receiving the voluntary
2 severance benefit and exercising any reduction-in-force rights
3 under chapter 89 or 89C, as applicable.

4 (f) The board of trustees of the employees' retirement
5 system shall make payments with respect to all eligible
6 employees who retire pursuant to this section. The board shall
7 determine the portion of the additional actuarial present value
8 of benefits to be charged to the State based upon retirements
9 authorized under this section. If necessary, the State shall
10 make additional payments to the employees' retirement system in
11 the amounts required to amortize the additional actuarial
12 present value of benefits over a period of five years. The
13 unfunded actuarial present values of benefits payable under this
14 section shall be considered part of the unfunded accrued
15 liability of the employees' retirement system under sections
16 88-122 and 88-123.

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



1 § -5 Reemployment. Any employee who has received either
2 a voluntary severance benefit or a special retirement benefit
3 under this chapter and returns to public service within two
4 years as an employee or contractor shall repay the voluntary
5 severance benefit or the special retirement benefit to the
6 public employer or the employees' retirement system, as the case
7 may be, within thirty days of reemployment with a public
8 employer. Any employee who received a special retirement
9 benefit under this chapter and returns to public service shall
10 meet the age and service requirements in effect when the
11 employee first entered state employment.

12 § -6 Payments; lapse of unexpended funds. After
13 payments of all costs associated with the voluntary severance
14 benefits and special retirement benefits, a public employer's
15 remaining payroll balances shall not be expended for any purpose
16 and shall lapse into the appropriate fund.

17 § -7 Reporting requirements; reduction in personnel
18 counts. The head of each affected department or agency that
19 provided benefits under this chapter shall:

20 (1) Transmit a report of every position identified for
21 abolishment and vacated under this chapter to the



1 directors of finance and human resources development
2 who shall abolish these positions from the appropriate
3 budget and personnel files. The governor shall report
4 this information to the legislature no later than
5 twenty days prior to the convening of each regular
6 session beginning with the regular session of 2017;

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

18 § -8 Guidelines; development and administration. The
19 department of human resources development and department of
20 budget and finance shall develop and administer guidelines and
21 time frames with the affected public employee unions to



1 implement the voluntary separation benefits and special
 2 retirement benefits under this chapter. The department of human
 3 resources development, the department of labor and industrial
 4 relations, the employees' retirement system, and the Hawaii
 5 employer-union health benefits trust fund shall work
 6 cooperatively to ensure that briefings are provided prior to the
 7 implementation of any workforce restructuring plan to educate
 8 the employees of the various departments of the state executive
 9 branch whose positions are being abolished or who are directly
 10 affected by a reduction-in-force or workforce restructuring
 11 plan.

12 The department of human resources development and the
 13 department of budget and finance shall report to the legislature
 14 on any restructuring activities initiated because of this
 15 chapter no later than twenty days prior to the convening of each
 16 regular session beginning with the regular session of 2017.

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



1 § -9 Matching funds. The governor may provide funds to
2 obtain matching federal moneys to retrain employees in the state
3 executive branch who are separated from service under this
4 chapter.

5 § -10 Optional participation by other jurisdictions.

6 The city and county of Honolulu, county of Hawaii, county of
7 Kauai, county of Maui, department of education, judiciary,
8 Hawaii health systems corporation, office of Hawaiian affairs,
9 or legislative branch of the State or a county may opt to
10 provide the voluntary severance benefit under section -2 or
11 the special retirement benefit under section -3 to their
12 respective employees under an official reduction-in-force or a
13 workforce restructuring plan as defined by its separation
14 incentives program guidelines and time frames developed and
15 administered by the respective jurisdictions.

16 No civil service employee may elect and receive a
17 combination of reduction-in force, voluntary severance benefit,
18 or special retirement benefit when directly affected by a
19 reduction in-force or workforce restructuring plan. Whenever
20 any of the other jurisdictions, as defined in section -1,
21 opts to provide the voluntary severance benefit or special



1 retirement benefit, the jurisdiction's separation benefit
2 guidelines and use of the special retirement benefit shall be
3 consistent with this chapter.

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

13 § -11 Payments to the Hawaii employer-union health
14 benefits trust fund. Payments for a voluntary severance benefit
15 or a special retirement benefit may be deposited into an account
16 at the Hawaii employer-union health benefits trust fund. The
17 Hawaii employer-union health benefits trust fund shall credit
18 the monthly premium cost for health care coverage against that
19 account for the employee who receives either a voluntary
20 severance benefit or a special retirement benefit.



1 § -12 Review by employee. Employees offered a voluntary
2 severance benefit or a special retirement benefit shall be given
3 sufficient time to make an informed decision from the date of
4 receiving accurate and complete information about the offer."

5 SECTION 3. This Act shall take effect on January 7, 2059,
6 and shall be repealed on July 1, 2018.

7



Report Title:

ERS; Public Employees; Separation Benefits; Early Retirement

Description:

Authorizes public employees facing position abolishment, reduction-in-force, or workforce restructuring to opt to receive either voluntary severance benefits or a special retirement benefit in lieu of exercising any reduction-in-force rights. Effective January 7, 2059. Sunsets on July 1, 2018. (SD1)

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