

H.B. NO. 1366

A BILL FOR AN ACT

RELATING TO SEPARATION INCENTIVES.

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

1 SECTION 1. Act 253, Session Laws of Hawaii 2000, is
2 amended by amending section 113 to read as follows:

3 "SECTION 113. [~~As used herein:~~] For the purposes of this
4 part:

5 "Directly affected" means an employee who receives official
6 reduction-in-force notification of displacement from the
7 employee's position as a result of a senior employee exercising
8 reduction-in-force rights.

9 "Employee" means an individual in a position covered by
10 chapter 88, Hawaii Revised Statutes, that has been identified
11 for abolishment or directly affected as a result of a reduction-
12 in-force or workforce restructuring plan, but excludes any
13 elected or appointed official and school level personnel with
14 the department of education engaged in administrative or
15 instructional work, such as, principals and teachers.

16 [~~"Jurisdiction"~~] "Other jurisdictions" means the city and
17 county of Honolulu, the county of Hawaii, the county of Maui,

1 the county of Kauai, the department of education, the judiciary,
2 the Hawaii health systems corporation, the office of Hawaiian
3 affairs, and the legislative branches of the State and county
4 governments.

5 "Reduction-in-force" includes layoff under chapter 76
6 Hawaii Revised Statutes.

7 "State executive branch" includes [~~the department of~~
8 ~~education and~~] the University of Hawaii, but excludes the Hawaii
9 health systems corporation and the department of education,
10 which [~~is~~] are considered [~~a~~] separate personnel [~~jurisdiction~~]
11 jurisdictions under this part."

12 SECTION 2. Act 253, Session Laws of Hawaii 2000, section
13 115, is amended by amending subsections (b), (c), (d), and (e)
14 to read as follows:

15 "(b) Any employee who elects to retire and receive the
16 special retirement incentive benefit under this section shall
17 notify the employee's employing department and file a formal
18 application for retirement with the employees' retirement system
19 not less than thirty days nor more than [~~ninety~~] one hundred
20 fifty days prior to the date of retirement.

21 (c) Notwithstanding the age and length of service
22 requirements of sections 88-73 [~~and~~], 88-281, and 88-331, Hawaii

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

- 5 (1) Has at least ten years of credited service as a
6 contributory class A or B member and is at least fifty
7 years of age;
- 8 (2) Has at least twenty years of credited service as a
9 contributory class A or B member, irrespective of age;
- 10 (3) Has at least ten years of credited service as a
11 noncontributory class C member or as a class H member
12 and is at least fifty-seven years of age; or
- 13 (4) Has at least twenty-five years of credited service as a
14 noncontributory class C member [7] or as a class H
15 member, irrespective of age.
- 16 (d) Any employee who exercises the option of the special
17 retirement incentive benefit under this section because the
18 employee does not qualify with respect to the age and length of
19 service requirements under sections 88-73 [~~and~~], 88-281, and 88-
20 331, Hawaii Revised Statutes, to receive a retirement benefit
21 without penalty, shall not have the retirement benefit reduced
22 in accordance with the actuarial formula normally used by the

1 employees' retirement system for the calculation of early
2 retirement benefits.

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

14 SECTION 3. Act 253, Session Laws of Hawaii 2000, is
15 amended by amending section 120 to read as follows:

16 "SECTION 120. The departments of human resources
17 development and budget and finance shall develop and administer
18 guidelines and timeframes for [~~participating agencies~~] the
19 various departments of the state executive branch to implement
20 the voluntary separation and special retirement incentive
21 benefits under this part.

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

11 The department of human resources development and the
12 department of budget and finance shall report to the legislature
13 on any restructuring or reengineering activities initiated as a
14 consequence of this part within the various departments of the
15 state executive branch no later than twenty days prior to the
16 convening of each regular session beginning with the 2001
17 regular session.

18 The report shall include but not be limited to a
19 description of the abolished positions [~~and~~], an explanation as
20 to how the new workforce structure will more efficiently serve
21 the needs of the agency's clients, and a listing of the

1 appropriate criteria by which to measure the new workforce
2 structure's effectiveness."

3 SECTION 4. Act 253, Session Laws of Hawaii 2000, is
4 amended by amending section 122 to read as follows:

5 "SECTION 122. Optional participation [~~by a county, the~~
6 ~~judiciary, the Hawaii health systems corporation, the office of~~
7 ~~Hawaiian affairs, or the legislative branch of the State or a~~
8 ~~county.] by other jurisdictions. The city and county of
9 Honolulu, the county of Hawaii, the county of Kauai, the county
10 of Maui, the department of education, the judiciary, the Hawaii
11 health systems corporation, the office of Hawaiian affairs, or
12 the legislative branch of the State or a county may opt to
13 provide the special retirement incentive benefit under section
14 115 to their respective employees under an official reduction-
15 in-force or a workforce restructuring plan[~~; provided that the~~
16 ~~special retirement incentive is in lieu of any voluntary~~
17 ~~severance benefit that may be offered under its plan and is~~
18 ~~consistent with all of the provisions in section 115.] as
19 defined by its separation incentives program guidelines and
20 timeframes developed and administered by the respective
21 jurisdictions.~~~~

1 In no event may any civil service employee elect and
2 receive a combination of reduction-in force, voluntary
3 severance, or special retirement incentive benefits when
4 directly affected by a reduction-in-force or workforce
5 restructuring plan. Whenever any of the other jurisdictions, as
6 defined by this part, opts to provide the special retirement
7 incentive benefit, the jurisdiction's separation incentive
8 guidelines and use of the special retirement incentives shall be
9 consistent with all of the provisions in section 115.

10 All references to the [State] state executive branch in
11 [section] sections 115, 116, 117, 118, 119, and 120 shall
12 [include the jurisdiction] apply to any other jurisdictions, as
13 defined by this part, opting to provide the special retirement
14 incentive benefit. The chief executive or other appropriate
15 authority of each of the respective other jurisdictions shall
16 ensure that approval of its respective legislative body is
17 obtained[, if required,] before offering the special retirement
18 incentive under section 115."

19 SECTION 5. Act 253, Session Laws of Hawaii 2000, as
20 amended by Act 131, Session Laws of Hawaii 2002 is amended by
21 amending section 124 to read as follows:

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1 "SECTION 124. This part shall be repealed on June 30,
2 [~~2008-~~] 2013."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

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7

INTRODUCED BY: Calvin K. Day
BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO SEPARATION INCENTIVES.

PURPOSE: To clarify that the Department of Human Resources Development's authority for separation incentives is limited to the various departments and agencies of the state executive branch, excluding the Department of Education and Hawaii Health Systems Corporation, and that its authority does not extend to departments and agencies in other personnel jurisdictions.

To clarify that the separation incentives provisions are also applicable to and shall be complied with by other jurisdictions, whenever they opt to participate and utilize the special retirement incentives. Currently, the optional participation provision appears to be limited to section 115 relating to the special retirement section.

To incorporate the new "H" class members into section 115, separation retirement benefit.

To extend the June 30, 2008 sunset date of part V, Separation Incentives, Act 253, Session Laws of Hawaii 2000, as extended by Act 131, Session Laws of Hawaii 2002, to June 30, 2013.

MEANS: Amend sections 113, 115, 120, 122, and 124 of Act 253, Session Laws of Hawaii 2000, as amended by Act 131, Session Laws of Hawaii 2002.

JUSTIFICATION: There has been some disagreement, primarily from the Legislative Auditor's Office, as to whether the Department of Human Resources Development (DHRD) has authority over other jurisdictions in regard to separation incentives. While we believe that the law

clearly limits this authority, the Legislative Auditor disagreed in a legislative study issued during the 2005 legislative session. Consequently, this clarification is needed so that the Departments of Human Resources Development (DHRD) and Budget and Finance (B & F), and the other jurisdictions will clearly know that DHRD and B & F have no authority over them with respect to separation incentives.

In March of 2006, the Employees' Retirement System (ERS) advised all public employers that, due to an oversight, any employee that elected to be an H or "hybrid" member of the ERS will not be eligible to receive a special retirement benefit under section 115 once the hybrid plan took effect on July 1, 2006. The bill proposes changes to section 115 that will include the new "H" class members as defined by the ERS. The bill makes further technical changes consistent with Act 128, Session Laws of Hawaii 2002, which amended sections 88-73(c) and 88-281(f) to extend the retirement filing period from 90 days to 150 days.

Further, all other jurisdictions as defined by this part, who opt to participate under section 122 shall be subjected to and comply with the same mandates under sections 115, 116, 117, 118, and 120 that are currently required of the state executive branch. Other jurisdictions include the Department of Education, which administers its own separate civil service personnel system as provided by Act 51, Session Laws of Hawaii 2004.

The proposed changes relating to other jurisdictions are necessary to ensure that legislative intent in enacting the separation incentives law is preserved. Major concerns of the Legislature included, but were not limited to, the following: (1) planned workforce restructuring of programs or reduction-in-force that permanently reduced the workforce size and associated personnel costs; (2) minimization of the negative impact of a reduction-in-force at every step in the layoff process as defined by

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collective bargaining agreements and executive order; (3) authorization of separation incentives benefits to each affected employee who receives an official notice of reduction-in-force, with the forfeiture of their reduction-in-force rights and benefits; and (4) informed career decisions by affected employees, through mandated briefings of employee benefits, prior to making their election of benefits.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Budget and Finance
Department of Accounting and General Services
Department of Labor and Industrial Relations
Employees' Retirement System
Employer-Union Health Benefits Trust Fund

EFFECTIVE DATE: Upon approval.