

Report Title:

Vacation Allowance; Exempt State Managerial Executive Department Employees; Exempt State Managerial Legislative Branch Employees; Statewide Attrition Policy

Description:

Requires state managerial executive department and state managerial legislative branch employees who are exempt from chapter 76, HRS (civil service law) to use or donate accumulated and accrued vacation allowance prior to discharge, or to forfeit remaining vacation allowance and any compensation in lieu of retaining vacation allowance upon discharge. Provides for a statewide attrition policy.

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYEES.

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

1 PART I

2 SECTION 1. Section 78-23, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§78-23 Leaves of absence.** (a) Employees shall be
5 eligible for vacation leave, sick leave, and other leaves of
6 absence, with or without pay, as negotiated under chapter 89 or
7 adjusted under chapter 89C, as applicable.

8 (b) When an employee, including any managerial employee of
9 an executive department of the State who is exempt from chapter
10 76 and any managerial employee of the legislative branch of the
11 State who is exempt from chapter 76, is transferred from one
12 department to another within the same jurisdiction or to another
13 jurisdiction within the State, the employee shall be given
14 credit for the vacation earned or accumulated in the department
15 from which the employee transferred, and the director of finance
16 of the State or the equivalent officers of the several
17 jurisdictions shall make the appropriate transfer of funds to

1 implement the employee transfer. Moneys received from [~~any~~
2 ~~such~~] the transfer of funds by a state agency financed by the
3 general fund of the State shall be deposited with the director
4 of finance of the State to the credit of the general fund of the
5 State; provided that, when an employee is transferred from one
6 department to another within the same jurisdiction, the transfer
7 of funds shall not be made if the employee's salary is paid from
8 the same fund. Compensation for any period of vacation
9 allowance shall be paid at the rate to which the employee is
10 entitled at the time the allowance is granted.

11 (c) [~~Upon~~] Except as provided in subsection (f), upon
12 discharge, an employee shall be entitled to all of the
13 employee's accumulated vacation allowance plus the employee's
14 current accrued vacation allowance to and including the date of
15 discharge, notwithstanding that the current accrued vacation
16 allowance may not have been recorded at the time. If any
17 employee, including any managerial employee of an executive
18 department of the State who is exempt from chapter 76 and any
19 managerial employee of the legislative branch of the State who
20 is exempt from chapter 76, dies with accumulated or current
21 accrued vacation earned but not taken, an amount equal to the
22 value of the employee's pay over the period of [~~such~~] the earned

1 vacation, and any earned and unpaid wages, shall be paid to the
2 person or persons who may have been designated as the
3 beneficiary or beneficiaries by the employee during the
4 employee's lifetime in a verified written statement filed with
5 the comptroller or other disbursing officer who issues warrants
6 or checks to pay the employee for the employee's services as a
7 public employee, or, failing the designation, to the employee's
8 estate.

9 (d) [~~Whenever~~] Except as provided in subsection (f),
10 whenever an employee is to be discharged, voluntarily or
11 involuntarily, the employee, at the option of the appointing
12 authority, may be discharged and paid forthwith, in lieu of the
13 employee's vacation allowance, the amount of compensation to
14 which the employee would be entitled or which the employee would
15 be allowed during the vacation period if the employee were
16 permitted to take the employee's vacation in the normal manner,
17 and in [~~such~~] that case the employee's position may be declared
18 vacant and may be permanently filled by a new appointee before
19 the expiration of any vacation period following the date of the
20 discharge. For an employee hired after June 30, 1997, who is to
21 be discharged, voluntarily or involuntarily, the amount of
22 compensation to be paid in lieu of vacation allowance under this

1 section shall be computed using the rate of pay and amount of
2 accumulated and accrued vacation on the date the employee is
3 discharged. [~~Prompt~~] The department head shall give employees
4 prompt notice [upon such forms and in such manner as may be
5 required shall be given by the department head] of any action
6 taken under this provision.

7 (e) Payments of vacation allowance paid pursuant to
8 subsections (c) or (d) shall be subject to the provisions of
9 chapter 88D.

10 (f) Upon voluntary or involuntary discharge from the
11 State, a managerial employee of an executive department of the
12 State who is exempt from chapter 76 or a managerial employee of
13 the legislative branch of the State who is exempt from chapter
14 76 shall not be entitled to compensation in lieu of the
15 employee's accumulated vacation allowance or the employee's
16 current accrued vacation allowance to and including the date of
17 discharge; rather, beginning July 1, 2009, the employee shall:

18 (1) Use, prior to discharge, accumulated vacation
19 allowance and current accrued vacation allowance to
20 and including the date of discharge;

- 1 (2) Donate, prior to discharge, accumulated vacation
2 allowance through a leave sharing program pursuant to
3 section 78-26; or
- 4 (3) Forfeit accumulated vacation allowance and current
5 accrued vacation allowance to and including the date
6 of discharge that is not used or not donated in
7 accordance with paragraphs (1) and (2). An amount
8 equivalent to the compensation that would have been
9 paid to the employee upon discharge prior to enactment
10 of this section shall be deposited with the director
11 of finance of the State to the credit of the
12 department that employed the employee immediately
13 prior to discharge.

14 If a managerial employee of an executive department of the
15 State who is exempt from chapter 76 or a managerial employee of
16 the legislative branch of the State who is exempt from chapter
17 76 is voluntarily or involuntarily discharged, the employee
18 shall not be entitled to reemployment by the same department
19 that employed the employee immediately prior to discharge."

20 SECTION 2. This part shall take effect on July 1, 2009, and
21 shall be repealed on December 31, 2010; provided that

1 section 78-23, Hawaii Revised Statutes, shall be reenacted in
2 the same form in which it read on June 30, 2009.

3 PART II

4 SECTION 3. (a) Except for positions in the department of
5 education and the University of Hawaii, with respect to
6 positions in the executive branch vacated during fiscal year
7 2009-2010 and fiscal year 2010-2011:

8 (1) Thirty per cent of the positions vacated in each
9 department in each fiscal year may be refilled by the
10 head of the department to ensure the continued ability
11 of the department to carry out its public purpose;

12 (2) Thirty per cent of the positions vacated in each
13 department shall be held vacant for fiscal year 2009-
14 2010 and shall be assigned to a statewide personnel
15 pool; provided that after June 30, 2010, the governor
16 may propose the transfer of vacant positions between
17 executive departments as necessary to fill essential
18 positions, subject to approval by the legislature
19 through the executive budget;

20 (3) Thirty per cent of the positions vacated in each
21 department shall be held vacant for fiscal year 2010-
22 2011 and shall be assigned to a statewide personnel

1 pool; provided that after June 30, 2011, the governor
2 may propose the transfer of vacant positions between
3 executive departments as necessary to fill essential
4 positions, subject to approval by the legislature
5 through the executive budget; and

6 (4) Forty per cent of the positions vacated in each
7 department in each fiscal year shall be eliminated.

8 (b) With respect to positions in the judiciary vacated
9 during fiscal year 2009-2010 and fiscal year 2010-2011:

10 (1) Thirty per cent of the positions vacated may be refilled
11 by the chief justice to ensure the continued ability of
12 the judiciary to carry out its public purpose;

13 (2) Thirty per cent of the positions vacated shall be held
14 vacant for each fiscal year; and

15 (3) Forty per cent of the positions vacated shall be
16 eliminated.

17 (c) With respect to positions in the University of Hawaii
18 vacated during fiscal year 2009-2010 and fiscal year 2010-2011:

19 (1) Seventy per cent of the positions vacated in each fiscal
20 year may be refilled by the president of the University
21 of Hawaii, with the approval of the board of regents;
22 provided that these positions shall be reallocated as

1 necessary to restructure and organize the university to
2 ensure the continued provision of appropriate, direct,
3 student-related services;

4 (2) Thirty per cent of the positions vacated shall be held
5 vacant for fiscal year 2009-2010; provided that after
6 June 30, 2010, the president of the University of Hawaii
7 may propose the transfer of vacant positions between
8 divisions, programs, and departments as necessary to
9 fill essential positions, subject to approval by the
10 legislature through the executive budget; and

11 (3) Thirty per cent of the positions vacated shall be held
12 vacant for fiscal year 2010-2011; provided that after
13 June 30, 2011, the president of the University of Hawaii
14 may propose the transfer of vacant positions between
15 divisions, programs, and departments as necessary to
16 fill essential positions, subject to approval by the
17 legislature through the executive budget.

18 (d) With respect to positions in the department of
19 education vacated during fiscal year 2009-2010 and fiscal year
20 2010-2011, twenty per cent of the vacated statewide
21 administrative positions shall be eliminated.

