
A BILL FOR AN ACT

RELATING TO THE STATE OF HAWAII DEFERRED COMPENSATION PLAN.

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

1 SECTION 1. The State of Hawaii deferred compensation plan
2 ("plan") is a supplemental retirement plan that is authorized
3 under Section 457 of the Internal Revenue Code of 1986, as
4 amended, and chapter 88E, Hawaii Revised Statutes. The plan is
5 available to employees of the State of Hawaii and participating
6 counties who are eligible to participate in the employees'
7 retirement system of the State of Hawaii. Under the plan,
8 participating employees can contribute a part of their
9 compensation on a tax-deferred basis. The plan allows employees
10 to supplement the retirement income they will receive from the
11 employees' retirement system and the United States Social
12 Security Administration. Currently, the counties of Hawaii,
13 Maui, and Kauai participate in the plan.

14 The State and the counties of Hawaii, Maui, and Kauai have
15 a combined workforce of approximately 57,103 who are eligible to
16 participate in the plan. However, of the number of eligible
17 employees, approximately thirty-five per cent of active



1 employees participate in the plan. The plan's board of trustees
2 ("board") is concerned about the plan's low participation rate
3 because industry experts and financial consultants believe that
4 relying on retirement income from an employee's pension and
5 social security alone may not be sufficient to keep up with
6 rising inflation costs. Thus, to assist employees in taking
7 advantage of this important employee benefit and saving more for
8 retirement, the board proposes to automatically enroll all new
9 state and participating county employees into the plan. To
10 accomplish this, the bill proposes to deduct one per cent of
11 each employee's gross monthly wages and deposit it into a
12 default investment option selected by the board.

13 However, the bill also provides flexibility to those
14 employees who do not want to participate in the plan by allowing
15 these employees to opt out of the plan within ninety calendar
16 days after the employees' first contribution is automatically
17 deposited into the plan. Employees who timely opt out of the
18 plan shall receive their contributions without a penalty,
19 subject to changing market prices and the withholding of all
20 applicable federal and state taxes.

21 SECTION 2. Section 88E-2, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~[+] §88E-2 [+] State deferred compensation plan[-];~~
2 automatic enrollment. (a) The State may establish a deferred
3 compensation plan in accordance with ~~[section]~~ Section 457 of
4 the Internal Revenue Code of ~~[1954,]~~ 1986, as amended, for the
5 benefit of employees to defer a portion of their compensation to
6 a future period of time. ~~[Participation in the plan shall be by~~
7 ~~written agreement between the employee and the State.]~~ The
8 county may enter into a formal agreement with the State to
9 extend the plan to employees of the county; provided that the
10 agreement designates one of the county's agencies to locally
11 coordinate the plan. ~~[Participation in the plan by a county~~
12 ~~employee shall be by written agreement between the employee and~~
13 ~~the county. An employee may authorize deductions to be made~~
14 ~~from the employees' wages for the purpose of participation in~~
15 ~~the plan.]~~

16 (b) Prior to July 1, 2010, state and participating county
17 employees may participate in the plan by entering into a written
18 agreement with the State or the respective county, and
19 authorizing deductions to be made from the employees' gross
20 monthly wages and contributed to the plan.

21 (c) All state and participating county employees who are
22 hired on or after July 1, 2010, shall be automatically enrolled



1 into the plan. Participation in the plan shall be automatic,
2 with a mandatory payroll deduction of one per cent of each
3 employee's gross monthly wages, which shall be contributed to
4 the plan; provided that:

5 (1) Participation in the plan shall be effective on the
6 date the employee is hired;

7 (2) The mandatory contributions shall be deposited
8 initially into the default investment option, which
9 shall be a fixed-income option, selected by the board;
10 thereafter, participants may transfer funds among the
11 various investment products offered in the plan or opt
12 out of participating in the plan in accordance with
13 this section;

14 (3) The board may increase the mandatory payroll deduction
15 percentage without complying with the rulemaking
16 requirements of chapter 91; provided that the:

17 (A) Board shall only increase the mandatory payroll
18 deduction percentage annually, and any increase
19 shall not exceed one per cent; and

20 (B) Total mandatory payroll deduction shall not
21 exceed three per cent;



1 (4) Within forty-five calendar days after the date an
2 employee is hired, the plan or administrator shall
3 inform the employee about the plan, including but not
4 limited to an employee's ability to opt out of the
5 plan pursuant to this section; and

6 (5) An employee who is automatically enrolled into the
7 plan may opt out of participating in the plan;
8 provided that any decision to opt out of participating
9 in the plan shall be clearly communicated in writing
10 to the administrator within ninety calendar days after
11 the employee receives the first paycheck. An employee
12 who timely opts out of participating in the plan shall
13 have all of the employee's mandatory contributions
14 returned to the employee without a penalty, subject to
15 changing market prices and the withholding of all
16 applicable federal and state taxes."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2010.



Report Title:

Deferred Compensation Plan

Description:

Assist eligible state and participating county employees in saving for retirement by automatically enrolling new employees into the State of Hawaii Deferred Compensation Plan, with an opt-out option. (HB1104 HD1)

