

JAN 28 2009

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYEES.

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

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

3 "§78-23 Leaves of absence. (a) Employees shall be
4 eligible for vacation leave, sick leave, and other leaves of
5 absence, with or without pay, as negotiated under chapter 89 or
6 adjusted under chapter 89C, as applicable.

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



1 by a state agency financed by the general fund of the State
2 shall be deposited with the director of finance of the State to
3 the credit of the general fund of the State; provided that, when
4 an employee is transferred from one department to another within
5 the same jurisdiction, the transfer of funds shall not be made
6 if the employee's salary is paid from the same fund.

7 Compensation for any period of vacation allowance shall be paid
8 at the rate to which the employee is entitled at the time the
9 allowance is granted.

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



1 have been designated as the beneficiary or beneficiaries by the
2 employee during the employee's lifetime in a verified written
3 statement filed with the comptroller or other disbursing officer
4 who issues warrants or checks to pay the employee for the
5 employee's services as a public employee, or, failing the
6 designation, to the employee's estate.

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



1 discharged. [~~Prompt~~] The department head shall give employees
2 prompt notice [~~upon such forms and in such manner as may be~~
3 ~~required shall be given by the department head~~] of any action
4 taken under this provision.

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

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

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

19 (2) Donate, prior to discharge, accumulated vacation
20 allowance through a leave sharing program pursuant to
21 section 78-26; or



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

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

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect on July 1, 2009, and
20 shall be repealed on December 31, 2010; provided that
21 section 78-23, Hawaii Revised Statutes, shall be reenacted in
22



1 the same form in which it read on June 30, 2009.

2

INTRODUCED BY:

[Handwritten signatures]
S.S.T.
May L. Ham
Will Eyo
Clarence N. Nishihara
Michelle N. Kudari
John D. ...
Rosaly de ...
F. ...
Mike ...
Carol ...



Report Title:

Vacation Allowance; Exempt State Executive Department Employees;
Exempt State Legislative Branch Employees

Description:

Requires state executive department and state 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. Sunsets December 31, 2010.

