

JAN 22 2010

A BILL FOR AN ACT

RELATING TO SEPARATION INCENTIVES.

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

1 SECTION 1. The purpose of this Act is to provide the tools
2 necessary to address budget shortfalls, reduce the need for
3 layoffs, and facilitate the restructuring of government.

4 Specifically, this Act authorizes the state executive branch to
5 offer a voluntary severance or a special retirement incentive
6 benefit to state employees who elect to voluntarily separate
7 from service when their positions are identified for abolishment
8 or when they are directly affected by a reduction-in-force or
9 workforce restructuring plan.

10 This Act also extends to other jurisdictions the option to
11 provide a special retirement incentive to their respective
12 employees under a reduction-in-force or a workforce
13 restructuring plan.

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 **"CHAPTER**

18 **SEPARATION INCENTIVES**



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

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

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

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

18 "Reduction-in-force" includes layoff under chapter 76.

19 "State executive branch" includes the University of Hawaii,
20 but excludes the Hawaii health systems corporation and the
21 department of education, which are considered separate personnel
22 jurisdictions under this chapter.



1 **§ -2 Voluntary severance benefits.** (a) Any civil
2 service employee entitled to reduction-in-force rights under
3 chapter 76 and who receives official notification that the
4 employee's position is being abolished or who is directly
5 affected by a reduction-in-force or workforce restructuring plan
6 proposed by a department, may elect to receive a voluntary
7 severance benefit provided under this section in lieu of
8 exercising any reduction-in-force rights under chapter 89 or
9 89C, as applicable, and in lieu of receiving any special
10 retirement incentive benefit under section -3.

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

16 For the purposes of this section, "base salary" means an
17 employee's annual salary for the position from which the
18 employee is to be separated, excluding all other forms of
19 compensation paid or accrued, whether a bonus, allowance,
20 differential, or value of leave or compensatory time off
21 credits. Compensation excluded from base salary includes, but
22 is not limited to: shortage category differential, night shift



1 differential, overtime, compensatory time off credits, vacation
2 or sick leave credits, and workers' compensation benefits.

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

7 (d) All voluntary severance benefits paid under this
8 section shall be subject to applicable state income tax laws and
9 rules.

10 (e) A voluntary severance benefit provided under this
11 section shall not be considered as a part of a discharged
12 employee's salary, service credit, or a cost item under section
13 89-2 when calculating retirement benefits or sick and vacation
14 leave.

15 **§ -3 Special retirement incentive benefit.** (a) Any
16 employee who receives official notification that the employee's
17 position is being abolished or who is directly affected by the
18 result of a reduction-in-force or workforce restructuring plan
19 proposed by a department may elect, if the employee is a vested
20 member of the employees' retirement system and meets any of the
21 criteria specified in subsection (c), the special retirement
22 benefit provided by this section in lieu of exercising any

1 reduction-in-force rights under chapter 89 or 89C, as
2 applicable, and in lieu of receiving any voluntary severance
3 benefits under section -2. To receive the special retirement
4 incentive benefit offered under this section, the employee shall
5 comply with the application and time frame requirements
6 specified in subsection (b).

7 (b) Any employee who elects to retire and receive the
8 special retirement incentive benefit under this section shall
9 notify the employee's employing department and file a formal
10 application for retirement with the employees' retirement system
11 not less than thirty days nor more than one hundred fifty days
12 prior to the date of retirement.

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

- 18 (1) Has at least ten years of credited service as a
19 contributory class A or B member and is at least fifty
20 years of age;
- 21 (2) Has at least twenty years of credited service as a
22 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 incentive benefit under this section because the
9 employee does not qualify with respect to the age and length of
10 service requirements under sections 88-73, 88-281, and 88-331,
11 to receive a retirement benefit without penalty, shall not have
12 the 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 shall transmit a
16 list of employees who elected and received the special
17 retirement incentive benefit to the board of trustees of the
18 employees' retirement system not less than thirty days but not
19 more than one hundred fifty days prior to the employee's
20 retirement date. The head of each affected department shall
21 certify that the employees on the list have in fact selected the
22 special retirement incentive benefit in lieu of receiving the



1 voluntary severance benefit and exercising any reduction-in-
2 force rights under chapter 89 or 89C, as applicable.

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

15 **§ -4 Restrictions.** No voluntary severance or special
16 retirement incentive benefit shall be payable to an employee
17 discharged for disciplinary reasons or for reasons other than a
18 reduction-in-force or workforce restructuring plan.

19 No voluntary severance or special retirement incentive
20 benefit shall be targeted on the basis of individual or personal
21 factors.



1 **§ -5 Reemployment.** No employee who has received any
2 benefit under this chapter shall be reemployed by the State in
3 any capacity as follows:

4 (1) For an employee receiving a voluntary severance
5 benefit under section -2, unless the gross amount
6 of the voluntary severance benefit paid is returned to
7 the appropriate fund prior to the commencement of
8 reemployment, if the employee is reemployed within
9 five years from the date of separation; or

10 (2) For an employee receiving a special retirement
11 incentive benefit under section -3, unless all
12 benefits derived from the specific retirement
13 incentive benefit, as determined by the board of
14 trustees of the employees' retirement system, are
15 forfeited prior to the commencement of reemployment.

16 **§ -6 Payments; lapse of unexpended funds.** After
17 payments of all costs associated with the voluntary severance
18 and special retirement incentive benefits, the remaining payroll
19 balances shall not be expended for any purpose and shall be
20 lapsed into the appropriate fund.

21 **§ -7 Department requirements; reporting; reduction in**
22 **personnel count.** The head of each affected department of the



1 state executive branch that provided benefits under this chapter
2 shall:

- 3 (1) Transmit a report of every position identified for
4 abolishment and vacated under this chapter to the
5 directors of finance and human resources development
6 who shall abolish these positions from the appropriate
7 budget and personnel files. The governor shall report
8 this information to the legislature no later than
9 twenty days prior to the convening of each regular
10 session beginning with the regular session of 2011;
- 11 (2) Reduce its personnel count by every position
12 identified for abolishment and vacated under this
13 chapter, whether the former incumbent vacated the
14 position as a result of accepting a voluntary
15 severance benefit or special retirement incentive
16 benefit authorized under this chapter or of exercising
17 reduction-in-force rights; and
- 18 (3) Transmit a list that includes each employee who
19 received benefits under this chapter and the benefit
20 received by the employee to the directors of finance
21 and human resources development.



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

16 The department of human resources development and the
17 department of budget and finance shall report to the legislature
18 on any restructuring or reengineering activities initiated as a
19 consequence of this chapter within the various departments of
20 the state executive branch no later than twenty days prior to
21 the convening of each regular session beginning with the regular
22 session of 2011.



1 The report shall include, but not be limited to, a
2 description of the abolished positions, an explanation as to how
3 the new workforce structure will more efficiently serve the
4 needs of the agency's clients, and a listing of the appropriate
5 criteria by which to measure the new workforce structure's
6 effectiveness.

7 **§ -9 Matching funds.** The governor may provide funds to
8 obtain matching federal moneys to retrain employees in the state
9 executive branch who separated from service under this chapter.

10 **§ -10 Optional participation by other jurisdictions.**

11 The city and county of Honolulu, the county of Hawaii, the
12 county of Kauai, the county of Maui, the department of
13 education, the judiciary, the Hawaii health systems corporation,
14 the office of Hawaiian affairs, or the legislative branch of the
15 State or a county may opt to provide the special retirement
16 incentive benefit under section -3 to their respective
17 employees under an official reduction-in-force or a workforce
18 restructuring plan as defined by its separation incentives
19 program guidelines and timeframes developed and administered by
20 the respective jurisdictions.

21 No civil service employee may elect and receive a
22 combination of reduction-in force, voluntary severance, or



1 special retirement incentive benefits when directly affected by
2 a reduction in-force or workforce restructuring plan. Whenever
3 any of the other jurisdictions, as defined in this chapter, opts
4 to provide the special retirement incentive benefit, the
5 jurisdiction's separation incentive guidelines and use of the
6 special retirement incentives shall be consistent with all of
7 the provisions in section -3.

8 All references to the state executive branch shall apply to
9 any other jurisdictions, as defined in this chapter, opting to
10 provide the special retirement incentive benefit. The chief
11 executive or other appropriate authority of each of the
12 respective other jurisdictions shall ensure that approval of its
13 respective legislative body is obtained before offering the
14 special retirement incentive under section -3."

15 SECTION 3. This Act shall take effect upon its approval.
16

INTRODUCED BY:

Report Title:

Public Employment; Separation Incentives

Description:

Authorizes the state executive branch to offer a voluntary severance or a special retirement incentive benefit to state employees who elect to voluntarily separate from service when their positions are identified for abolishment or when they are directly affected by a reduction-in-force or workforce restructuring plan; extends to other jurisdictions the option to provide a special retirement incentive to their respective employees under a reduction-in-force or a workforce restructuring plan.

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