

# S.B. NO. 922

JAN 26 2009

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## 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, only 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 457 of the Internal  
4 Revenue Code of ~~[1954,]~~ 1986, as amended, for the benefit of  
5 employees to defer a portion of their compensation to a future  
6 period of time. ~~[Participation in the plan shall be by written~~  
7 ~~agreement between the employee and the State.]~~ The county may  
8 enter into a formal agreement with the State to extend the plan  
9 to employees of the county; provided that the agreement  
10 designates one of the county's agencies to locally coordinate  
11 the plan. ~~[Participation in the plan by a county employee shall~~  
12 ~~be by written agreement between the employee and the county. An~~  
13 ~~employee may authorize deductions to be made from the employees'~~  
14 ~~wages for the purpose of participation in the plan.]~~

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

20 (c) All state and participating county employees who are  
21 hired on or after July 1, 2010, shall be automatically enrolled  
22 into the plan. Participation in the plan shall be automatic,

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

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

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

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

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

18 (B) Total mandatory payroll deduction shall not  
19 exceed three per cent;

20 (4) Within forty-five calendar days after the date an  
21 employee is hired, the plan or administrator shall  
22 inform the employee about the plan, including but not



**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.

SB 922

JUSTIFICATION SHEET

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII DEFERRED COMPENSATION PLAN.

PURPOSE: To assist eligible state and participating county employees in saving for retirement by automatically enrolling new employees into the State of Hawaii Deferred Compensation Plan ("Plan"), while allowing employees who subsequently decide to not participate to opt out of the Plan.

MEANS: Amend section 88E-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Plan is a supplemental retirement plan that is available to all state employees, and the employees of Kauai, Maui, and Hawaii counties. Under the Plan, participating employees can contribute part of their compensation on a tax-deferred basis. The Plan allows employees to supplement the retirement income they will receive from the State's Employees' Retirement System ("ERS") and Social Security ("SS").

Currently, approximately thirty five per cent of state and county employees participate in the Plan. The Plan's Board of Trustees ("board") is concerned about the Plan's low participation rate because industry experts and financial consultants believe that relying on retirement income from an employee's pension (i.e., the ERS) and SS alone may not be sufficient to keep up with rising inflation costs. Thus, to assist employees in taking advantage of this important employee benefit and saving more for retirement, the Board proposes to automatically enroll all new state and participating county employees into the Plan. To accomplish this, the bill proposes to deduct one per cent of each employee's

gross monthly wages and deposit it into a default investment option selected by the Board.

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

To allow the State, participating counties, and future employees to prepare for and adjust to this new requirement, this bill has a delayed effective date of July 1, 2010.

The bill's other amendments are non-substantive, and are made for the purposes of consistency, style, and clarity.

Impact on the public: None.

Impact on the department and other agencies:  
All state and participating county agencies may have to educate new employees.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	All state and county agencies.
EFFECTIVE DATE:	July 1, 2010.