

1 § -2 **Definitions.** As used in this chapter, unless the
2 context clearly indicates otherwise, the following terms shall
3 mean as follows:

4 "Board" means the board of trustees of the employees'
5 retirement system.

6 "Employees' retirement system" or "system" means the
7 employees' retirement system of the State of Hawaii.

8 "Privatized" means an action by state or county government
9 or those governments' political subdivisions that separates any
10 portion of the respective government or subdivision's operations
11 or facility, or both, that results in the conversion of a full-
12 time, permanent public employment position to a private sector
13 position and the separation from service of any full-time,
14 permanent public employee occupying the converted position.

15 "Public employee" means any person occupying a full-time,
16 permanent position in state or county government or those
17 governments' political subdivision, regardless of whether the
18 position is subject to chapter 76 or 89.

19 § -3 **Eligible employees.** A public employee may be
20 eligible for coverage under this chapter if the public
21 employee's position is one that meets the following criteria:



- 1 (1) The operation of the government function or facility
- 2 is assumed by an employer other than the State or its
- 3 political subdivisions or the government function or
- 4 facility is purchased by an employer other than the
- 5 State or its political subdivisions;
- 6 (2) The employee's termination from public employment is
- 7 due to privatization of the employee's position; and
- 8 (3) The employee's active membership in the employees'
- 9 retirement system consequently terminates.

10 § -4 Coverage determination. (a) The head of the

11 governmental agency with jurisdiction over the governmental

12 function or facility to be privatized may submit a resolution

13 from the corporation to the board of trustees of the employees'

14 retirement system that:

- 15 (1) Supports providing coverage under this chapter for an
- 16 eligible employee of the program that performs the
- 17 governmental function or the facility whose position
- 18 is privatized; and
- 19 (2) States that the governmental agency with jurisdiction
- 20 over the governmental function or facility to be



1 privatized will pay for actuarial calculations, as
2 further specified in subsection (c).

3 (b) The governmental agency with jurisdiction over the
4 governmental function or facility to be privatized shall also
5 provide a copy of any applicable purchase or lease agreement and
6 any other information requested by the board to allow the board
7 to verify that under the proposed change in employers, the new
8 employer is not the State or any of its political subdivisions,
9 rendering the eligible employee otherwise ineligible for
10 continued coverage as an active member of the employees'
11 retirement system.

12 (c) Following receipt of a resolution and a determination
13 by the board that the new employer is not the State or any of
14 its political subdivisions, the board shall direct its actuary
15 to determine whether the system, if coverage under this chapter
16 is provided, is expected to receive a net gain or a net loss if
17 privatization occurs. A net gain is expected if the actuarial
18 liability of the special benefit coverage provided under this
19 chapter, if extended to the eligible employee under the
20 privatization, is less than the actuarial gain otherwise to
21 accrue to the system. A net loss is expected if the actuarial



1 accrued liability of the special benefit coverage provided under
2 this chapter, if extended to the eligible employee under the
3 privatization, is more than the actuarial gain otherwise to
4 accrue to the system. The date of the actuarial calculations
5 used to make this determination shall be within one year of the
6 effective date of privatization.

7 § -5 Reporting privatization. (a) If the actuarial
8 calculations under section -4(c) indicate that privatization
9 can be approved because a net gain to the system is expected, or
10 if subsection (b) applies, the board shall extend coverage to
11 the eligible employee.

12 (b) If the calculations under section -4(c) indicate a
13 net loss to the system, the board shall extend coverage to the
14 eligible employee if the governmental agency with jurisdiction
15 over the governmental function or facility to be privatized
16 submits a resolution that specifies that a lump sum payment
17 shall be made to the system that is equal to the net loss, plus
18 interest. Payment shall be made on or after the effective date
19 of privatization.



1 (c) The system shall maintain a list that includes the
2 names of all privatized former public employees in the system's
3 annual report to the legislature and on the system's website.

4 § -6 Effect on privatized employee. An eligible
5 employee who is extended coverage under this chapter shall be
6 treated as, or continue to be treated as, a member of the system
7 for all rights and benefits as if privatization had not
8 occurred, including class membership, vesting, early retirement,
9 disability retirement, death benefits, and return to service of
10 a retirant. The employee's membership class shall be determined
11 as the class in which the employee belonged on the day prior to
12 the privatization of the employee's public employment position.

13 § -7 Counseling services. Prior to the privatization of
14 a government function or facility, the board shall provide the
15 public employees performing the governmental function or
16 employed by the facility to be privatized with counseling on
17 their benefits available under the system and this chapter."

18 SECTION 2. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 26 2016



H.B. NO. 2445

Report Title:

Public Employees; Privatization; Retirement Benefits

Description:

Ensures future ERS benefits for public employees who are terminated from public employment due to the privatization of their positions.

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