
A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYEES.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 PRIVATIZED EMPLOYEES' RETIREMENT SYSTEM BENEFITS

6 § -1 Findings and purpose. The purpose of this chapter
7 is to ensure, to the extent possible, that a public employee
8 whose position is privatized, and as a consequence of the
9 privatization the employee's membership and eligibility for
10 continued participation in the pension benefits provided by the
11 employees' retirement system has terminated, will be entitled to
12 receive future retirement benefits under the system commensurate
13 with the prior contributions made by the employee or made on the
14 employee's behalf upon the privatization of the employee's
15 position.

16 § -2 Definitions. As used in this chapter, unless the
17 context clearly indicates otherwise, the following terms shall
18 mean as follows:



1 "Board" means the board of trustees of the employees'
2 retirement system.

3 "Employees' retirement system" or "system" means the
4 employees' retirement system of the State of Hawaii.

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

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

16 § -3 Eligible employees. A public employee may be
17 eligible for coverage under this chapter if the public
18 employee's position is one that meets the following criteria:

- 19 (1) The operation of the government function or facility
20 is assumed by an employer other than the State or its
21 political subdivisions or the government function or



1 facility is purchased by an employer other than the
2 State or its political subdivisions;

3 (2) The employee's termination from public employment is
4 due to privatization of the employee's position; and

5 (3) The employee's active membership in the employees'
6 retirement system consequently terminates.

7 § -4 Coverage determination. (a) The head of the
8 governmental agency with jurisdiction over the governmental
9 function or facility to be privatized may submit a resolution
10 from the corporation to the board of trustees of the employees'
11 retirement system that:

12 (1) Supports providing coverage under this chapter for an
13 eligible employee of the program that performs the
14 governmental function or the facility whose position
15 is privatized; and

16 (2) States that the governmental agency with jurisdiction
17 over the governmental function or facility to be
18 privatized will pay for actuarial calculations, as
19 further specified in subsection (c).

20 (b) The governmental agency with jurisdiction over the
21 governmental function or facility to be privatized shall provide



1 a copy of any applicable purchase or lease agreement and any
2 other information requested by the board to allow the board to
3 verify that under the proposed change in employers, the new
4 employer is not the State or any of its political subdivisions,
5 rendering the eligible employee otherwise ineligible for
6 continued coverage as an active member of the employees'
7 retirement system.

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



1 used to make this determination shall be within one year of the
2 effective date of privatization.

3 § -5 Reporting privatization. (a) If the actuarial
4 calculations under section -4(c) indicate that privatization
5 can be approved because a net gain to the system is expected, or
6 if subsection (b) applies, the board shall extend coverage to
7 the eligible employee.

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

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

19 § -6 Effect on privatized employee. An eligible
20 employee who is extended coverage under this chapter shall be
21 treated as, or continue to be treated as, a member of the system



1 for all rights and benefits as if privatization had not
2 occurred, including class membership, vesting, early retirement,
3 disability retirement, death benefits, and return to service of
4 a retirant. The employee's membership class shall be determined
5 as the class in which the employee belonged on the day prior to
6 the privatization of the employee's public employment position.

7 § -7 Counseling services. Prior to the privatization of
8 a government function or facility, the board shall provide the
9 public employees performing the governmental function or
10 employed by the facility to be privatized with counseling on the
11 employees' benefits available under the system and this
12 chapter."

13 SECTION 2. This Act shall take effect on January 7, 2059.

14



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 the employees' positions. Effective January 7, 2059. (SD1)

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