
A BILL FOR AN ACT

RELATING TO SEPARATION BENEFITS.

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

1 SECTION 1. The purpose of this Act is to provide options
2 to assist public employees who may be displaced through the
3 privatization or closure of a state or county facility and
4 reduce the need for layoffs. Specifically, this Act authorizes
5 the state executive branch and other jurisdictions to offer a
6 voluntary severance benefit or a special retirement benefit to
7 employees who elect to separate from service when their
8 positions are identified for abolishment or when they are
9 directly affected by a reduction-in-force or workforce
10 restructuring plan, including privatization.

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

14 "CHAPTER
15 SEPARATION BENEFITS

16 § -1 Definitions. For the purposes of this chapter:



1 "Agency" or "attached agency" means a political subdivision
2 of state or county government that is administratively attached
3 to a department of state or county government.

4 "Directly affected" means an employee who receives official
5 reduction-in-force notification of displacement from the
6 employee's position because of a senior employee exercising
7 reduction-in-force rights, or because the employee's position is
8 part of a workforce restructuring plan, including privatization.

9 "Employee" means an individual employed by the state or
10 county government or those governments' attached agencies in a
11 position subject to chapter 88, which has been identified for
12 abolishment or who is directly affected because of a reduction
13 in-force or workforce restructuring plan, including
14 privatization.

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

20 "Reduction-in-force" includes layoffs under chapter 76 or
21 89.



1 "State executive branch" includes the University of Hawaii,
2 but excludes the Hawaii health systems corporation and the
3 department of education, which are considered separate personnel
4 jurisdictions under this chapter.

5 "Vested member" means a member of the employees' retirement
6 system of the State of Hawaii who has sufficient credited
7 service to be eligible to receive the service retirement benefit
8 in effect under section 88-74, 88-282, or 88-332, upon becoming
9 eligible under section 88-73, 88-281, or 88-331, respectively,
10 to receive a retirement allowance.

11 § -2 **Voluntary severance benefit.** (a) Any employee:
12 (1) Affected by Act 103, Session Laws of Hawaii 2015;
13 (2) Entitled to reduction-in-force rights under chapter 76
14 or 89; and
15 (3) Who receives official notification that the employee's
16 position is being abolished or is directly affected by
17 a reduction-in-force or workforce restructuring plan,
18 including privatization,
19 may elect to receive a voluntary severance benefit provided
20 under this section in lieu of exercising any reduction-in-force



1 rights under chapter 89 or 89C, as applicable, and in lieu of
2 receiving any special retirement benefit under section -3.

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

8 For the purposes of this section, "annual base salary"
9 means an employee's annual salary for the position from which
10 the employee is to be separated, excluding all other forms of
11 compensation paid or accrued, whether a bonus, allowance,
12 differential, or value of leave or compensatory time off
13 credits. Compensation excluded from annual base salary includes
14 shortage category differential, night shift differential,
15 overtime, compensatory time off credits, vacation or sick leave
16 credits, and workers' compensation benefits.

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



1 (d) All voluntary severance benefits paid under this
2 section shall be subject to applicable state income tax laws and
3 rules.

4 (e) A voluntary severance benefit provided under this
5 section shall not be considered as a part of a discharged
6 employee's salary, service credit, or a cost item as defined by
7 section 89-2 when calculating retirement benefits or sick and
8 vacation leave.

9 § -3 Special retirement benefit. (a) Notwithstanding
10 section 88-99 or any other law to the contrary, the employees'
11 retirement system may provide, regardless of whether the
12 actuarial value of the system's assets is one hundred per cent
13 of the system's actuarial accrued liability, the benefits
14 authorized under this section. Any employee who receives
15 official notification that the employee's position is being
16 abolished or who is directly affected by a reduction-in-force or
17 workforce restructuring plan, including privatization, proposed
18 by a department may elect, if the employee is a vested member of
19 the employees' retirement system and meets any of the criteria
20 specified in subsection (c), the special retirement benefit
21 provided by this section in lieu of exercising any reduction-in-



1 force rights under chapter 89 or 89C, as applicable, and in lieu
2 of receiving any voluntary severance benefits under section

3 -2. To receive the special retirement benefit offered under
4 this section, the employee shall comply with the application and
5 time frame requirements specified in subsection (b).

6 (b) Any employee who elects to retire and receive the
7 special retirement benefit under this section shall notify the
8 employee's employing department and file a formal application
9 for retirement with the employees' retirement system not less
10 than thirty days or more than one hundred fifty days prior to
11 the date of retirement.

12 (c) Notwithstanding the age and length of service
13 requirements of sections 88-73, 88-281, and 88-331, an employee
14 member shall qualify for the special retirement benefit if, on
15 the employee's retirement date, the employee is within five
16 years of the employee's qualified retirement age.

17 (d) Any employee who exercises the option of the special
18 retirement benefit under this section because the employee does
19 not qualify with respect to the age and length of service
20 requirements under section 88-73, 88-281, or 88-331, to receive
21 a retirement benefit without penalty, shall not have the



1 retirement benefit reduced in accordance with the actuarial
2 formula normally used by the employees' retirement system for
3 the calculation of early retirement benefits.

4 (e) The head of each affected department or agency shall
5 transmit a list of employees who elected to retire and receive
6 the special retirement benefit to the board of trustees of the
7 employees' retirement system not less than thirty days, but not
8 more than one hundred fifty days prior to the employee's
9 retirement date. The head of each affected department or agency
10 shall certify that the employees on the list have in fact
11 selected the special retirement benefit in lieu of receiving the
12 voluntary severance benefit or exercising any reduction-in-force
13 rights under chapter 89 or 89C, as applicable.

14 (f) The board of trustees of the employees' retirement
15 system shall make payments with respect to all eligible
16 employees who retire pursuant to this section. The board shall
17 determine the portion of the additional actuarial present value
18 of benefits to be charged to the State based upon retirements
19 authorized under this section. If necessary, the State shall
20 make additional payments to the employees' retirement system in
21 the amounts required to amortize the additional actuarial



1 present value of benefits over a period of five years. The
2 unfunded actuarial present values of benefits payable under this
3 section shall be considered part of the unfunded accrued
4 liability of the employees' retirement system under sections 88-
5 122 and 88-123.

6 § -4 **Restrictions.** No voluntary severance benefit or
7 special retirement benefit shall be payable to an employee
8 discharged for lawful disciplinary reasons or for reasons other
9 than a reduction-in-force or workforce restructuring plan.

10 § -5 **Reemployment.** Any employee who has received either
11 a voluntary severance benefit or a special retirement benefit
12 under this chapter and returns to public service within two
13 years as an employee or contractor shall repay the voluntary
14 severance benefit or the special retirement benefit to the
15 public employer or the employees' retirement system, as the case
16 may be, within thirty days of reemployment with a public
17 employer. Any employee who received a special retirement
18 benefit under this chapter and returns to work shall meet the
19 age and service requirements in effect when the individual first
20 entered state employment.



1 § -6 Payments; lapse of unexpended funds. After
 2 payments of all costs associated with the voluntary severance
 3 benefits and special retirement benefits, the public employer's
 4 remaining payroll balances shall not be expended for any purpose
 5 and shall be lapsed into the appropriate fund.

6 § -7 Reporting requirements; reduction in personnel
 7 counts. The head of each affected department or agency that
 8 employed individuals who receive benefits under this chapter
 9 shall:

10 (1) Transmit a report of every position identified for
 11 abolishment and vacated under this chapter to the
 12 director of finance and the director of human
 13 resources development who shall abolish these
 14 positions from the appropriate budget and personnel
 15 files. The governor shall report this information to
 16 the legislature no later than twenty days prior to the
 17 convening of each regular session beginning with the
 18 regular session of 2017;

19 (2) Reduce its personnel count by every position
 20 identified for abolishment and vacated under this
 21 chapter, whether the former incumbent vacated the



1 position as a result of accepting a voluntary
2 severance benefit or special retirement benefit
3 authorized under this chapter or of exercising
4 reduction-in-force rights; and

5 (3) Transmit a list that includes each employee who
6 received benefits under this chapter and the benefit
7 received by the employee to the director of finance
8 and the director of human resources development.

9 § -8 Guidelines; development and administration. The
10 departments of human resources development and budget and
11 finance shall develop and administer guidelines and time frames
12 with the affected public employee unions to implement the
13 voluntary separation benefits and special retirement benefits
14 under this chapter. The department of human resources
15 development, the department of labor and industrial relations,
16 the employees' retirement system, and the Hawaii employer-union
17 health benefits trust fund shall work cooperatively to ensure
18 that briefings are provided prior to the implementation of any
19 reduction-in-force or workforce restructuring plan to educate
20 the employees of the various departments of the state executive
21 branch, whose positions are being abolished or who are directly



1 affected by a reduction-in-force or workforce restructuring
2 plan.

3 The department of human resources development and the
4 department of budget and finance shall report to the legislature
5 on any restructuring activities initiated because of this
6 chapter no later than twenty days prior to the convening of each
7 regular session beginning with the regular session of 2017.

8 The report shall include a description of the abolished
9 positions, an explanation as to how the new workforce structure,
10 including resulting service delivery changes, will more
11 efficiently serve the needs of the agency's clients, the cost of
12 the benefit per participant, and the total cost to the State.

13 § -9 Matching funds. The governor may provide funds to
14 obtain matching federal moneys to retrain employees in the state
15 executive branch who separated from service under this chapter.

16 § -10 Optional participation by other jurisdictions.
17 The city and county of Honolulu, the county of Hawaii, the
18 county of Kauai, the county of Maui, the department of
19 education, the judiciary, the Hawaii health systems corporation,
20 the office of Hawaiian affairs, or the legislative branch of the
21 State or a county may opt to provide the voluntary severance



1 benefit under section -2 or the special retirement benefit
2 under section -3 to its respective employees under an
3 official reduction-in-force or a workforce restructuring plan as
4 defined by its separation incentives program guidelines and time
5 frames developed and administered by each respective
6 jurisdiction.

7 No civil service employee may elect and receive a
8 combination of reduction-in force, voluntary severance benefit,
9 or special retirement benefit when directly affected by a
10 reduction in-force or workforce restructuring plan. Whenever
11 any of the other jurisdictions, as defined in this chapter, opts
12 to provide the voluntary severance benefit or special retirement
13 benefit, the jurisdiction's separation benefit guidelines and
14 use of the special retirement benefit shall be consistent with
15 this chapter.

16 All references to the state executive branch shall apply to
17 any other jurisdictions, as defined in this chapter, opting to
18 provide the voluntary severance benefit or the special
19 retirement benefit. The chief executive or other appropriate
20 authority of each of the respective other jurisdictions shall
21 ensure that approval of its respective legislative body is



1 obtained before offering the voluntary severance benefit under
2 section -2 or the special retirement benefit under section
3 -3.

4 § -11 Payments to the employer-union health benefits
5 trust fund. Payments for a voluntary severance benefit or a
6 special retirement benefit may be deposited into an account at
7 the employer-union health benefits trust fund. The employer-
8 union health benefits trust fund shall credit the monthly
9 premium cost for health care coverage against that account for
10 the employee who receives either a voluntary severance benefit
11 or a special retirement benefit.

12 § -12 Review by employee. Employees offered a voluntary
13 severance benefit or a special retirement benefit shall be given
14 sufficient time to make an informed decision from the date of
15 receiving accurate and complete information about the offer."

16 SECTION 3. This Act shall take effect on July 1, 2030, and
17 shall be repealed on June 30, 2017.



Report Title:

ERS; Public Employees; Separation Benefits; Early Retirement

Description:

Authorizes public employees facing position abolishment, reduction-in-force, or workforce restructuring to opt to receive either voluntary severance benefits or a special retirement benefit in lieu of exercising any reduction-in-force rights.

(HB2446 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

