
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 or a special retirement benefit to its
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:

17 "Actuarial present value" means the difference in value
18 between a member's benefit reflecting termination of service



1 without the special retirement provision and the value of the
2 member's benefit reflecting the special retirement benefit.

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

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

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

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



1 "Reduction-in-force" includes layoffs under chapter 76 or
2 89.

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

7 § -2 Voluntary severance benefit. (a) Any employee
8 entitled to reduction-in-force rights under chapter 76 or 89 and
9 who receives official notification that the employee's position
10 is being abolished or who is directly affected by a reduction-
11 in-force or workforce restructuring plan, including
12 privatization, may elect to receive a voluntary severance
13 benefit provided under this section in lieu of exercising any
14 reduction-in-force rights under chapter 89 or 89C, as
15 applicable, and in lieu of receiving any special retirement
16 benefit under section -3.

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



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

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

14 (d) All voluntary severance benefits paid under this
15 section shall be subject to applicable state income tax laws and
16 rules.

17 (e) A voluntary severance benefit provided under this
18 section shall not be considered as a part of a discharged
19 employee's salary, service credit, or a cost item as defined in
20 section 89-2 when calculating retirement benefits or sick and
21 vacation leave.



1 § -3 Special retirement benefit. (a) Notwithstanding
2 section 88-99 or any other law to the contrary, the employees'
3 retirement system may provide, regardless of whether the
4 actuarial value of the system's assets is one hundred per cent
5 of the system's actuarial accrued liability, the benefits
6 authorized under this section. Any employee who receives
7 official notification that the employee's position is being
8 abolished or who is directly affected by a reduction-in-force or
9 workforce restructuring plan, including privatization, proposed
10 by a department may elect, if the employee is a vested member of
11 the employees' retirement system and meets any of the criteria
12 specified in subsection (c), the special retirement benefit
13 provided by this section in lieu of exercising any reduction-in-
14 force rights under chapter 89 or 89C, as applicable, and in lieu
15 of receiving any voluntary severance benefits under section

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

19 (b) Any employee who elects to retire and receive the
20 special retirement benefit under this section shall notify the
21 employee's employing department and file a formal application



1 for retirement with the employees' retirement system not less
2 than thirty days or more than one hundred fifty days prior to
3 the date of retirement.

4 (c) Notwithstanding the age and length of service
5 requirements of sections 88-73, 88-281, and 88-331, an employee
6 shall qualify for the special retirement benefit if, on the
7 employee's retirement date, the employee meets any one of the
8 following criteria:

- 9 (1) Has at least ten years of credited service as a
10 contributory class A or B member and is at least fifty
11 years of age;
- 12 (2) Has at least twenty years of credited service as a
13 contributory class A or B member, irrespective of age;
- 14 (3) Has at least ten years of credited service as a
15 noncontributory class C member or as a class H member
16 and is at least fifty-seven years of age; or
- 17 (4) Has at least twenty-five years of credited service as
18 a noncontributory class C member or as a class H
19 member, irrespective of age.

20 (d) Any employee who exercises the option of the special
21 retirement benefit under this section because the employee does



1 not qualify with respect to the age and length of service
2 requirements under section 88-73, 88-281, or 88-331, to receive
3 a retirement benefit without penalty, shall not have the
4 retirement benefit reduced in accordance with the actuarial
5 formula normally used by the employees' retirement system for
6 the calculation of early retirement benefits.

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

17 (f) The board of trustees of the employees' retirement
18 system shall make payments with respect to all eligible
19 employees who retire pursuant to this section. The board shall
20 determine the portion of the additional actuarial present value
21 of benefits to be charged to the State based upon retirements



1 authorized under this section. If necessary, the State shall
2 make additional payments to the employees' retirement system in
3 the amounts required to amortize the additional actuarial
4 present value of benefits over a period of five years. The
5 unfunded actuarial present values of benefits payable under this
6 section shall be considered part of the unfunded accrued
7 liability of the employees' retirement system under sections
8 88-122 and 88-123.

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

13 § -5 Reemployment. Any employee who has received either
14 a voluntary severance benefit or a special retirement benefit
15 under this chapter and returns to public service within two
16 years as an employee or contractor shall repay the voluntary
17 severance benefit or the special retirement benefit to the
18 public employer or the employees' retirement system, as the case
19 may be, within thirty days of reemployment with a public
20 employer.



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 provided benefits under this chapter shall:

- 9 (1) Transmit a report of every position identified for
10 abolishment and vacated under this chapter to the
11 directors of finance and human resources development
12 who shall abolish these positions from the appropriate
13 budget and personnel files. The governor shall report
14 this information to the legislature no later than
15 twenty days prior to the convening of each regular
16 session beginning with the regular session of 2017;
- 17 (2) Reduce its personnel count by every position
18 identified for abolishment and vacated under this
19 chapter, whether the former incumbent vacated the
20 position as a result of accepting a voluntary
21 severance benefit or special retirement benefit



1 authorized under this chapter or of exercising
2 reduction-in-force rights; and
3 (3) Transmit a list that includes each employee who
4 received benefits under this chapter and the benefit
5 received by the employee to the directors of finance
6 and human resources development.

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



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

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

11 § -9 **Matching funds.** The governor may provide funds to
12 obtain matching federal moneys to retrain employees in the state
13 executive branch who separated from service under this chapter.

14 § -10 **Optional participation by other jurisdictions.**
15 The city and county of Honolulu, the county of Hawaii, the
16 county of Kauai, the county of Maui, the department of
17 education, the judiciary, the Hawaii health systems corporation,
18 the office of Hawaiian affairs, or the legislative branch of the
19 State or a county may opt to provide the voluntary severance
20 benefit under section -2 or the special retirement benefit
21 under section -3 to their respective employees under an



1 official reduction-in-force or a workforce restructuring plan as
2 defined by its separation incentives program guidelines and time
3 frames developed and administered by the respective
4 jurisdictions.

5 No civil service employee may elect and receive a
6 combination of reduction-in force, voluntary severance benefit,
7 or special retirement benefit when directly affected by a
8 reduction in-force or workforce restructuring plan. Whenever
9 any of the other jurisdictions, as defined in section -1,
10 opts to provide the voluntary severance benefit or special
11 retirement benefit, the jurisdiction's separation benefit
12 guidelines and use of the special retirement benefit shall be
13 consistent with this chapter.

14 All references to the state executive branch shall apply to
15 any other jurisdictions, as defined in section -1, opting to
16 provide the voluntary severance benefit or the special
17 retirement benefit. The chief executive or other appropriate
18 authority of each of the respective other jurisdictions shall
19 ensure that approval of its respective legislative body is
20 obtained before offering the voluntary severance benefit under



1 section -2 or the special retirement benefit under section
2 -3.

3 § -11 Payments to the Hawaii employer-union health
4 benefits trust fund. Payments for a voluntary severance benefit
5 or a special retirement benefit may be deposited into an account
6 at the Hawaii employer-union health benefits trust fund. The
7 Hawaii employer-union health benefits trust fund shall credit
8 the monthly premium cost for health care coverage against that
9 account for the employee who receives either a voluntary
10 severance benefit or a special retirement benefit.

11 § -12 Review by employee. Employees offered a voluntary
12 severance benefit or a special retirement benefit shall be given
13 sufficient time to make an informed decision from the date of
14 receiving accurate and complete information about the offer."

15 SECTION 3. This Act shall take effect on January 7, 2059,
16 and shall be repealed on July 1, 2018.

17



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. Effective January 7, 2059. Sunsets on July 1, 2018. (SD1)

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