

"[CHAPTER 88F]
DEFERRED COMPENSATION RETIREMENT PLAN FOR PART-TIME,
TEMPORARY, AND SEASONAL OR CASUAL EMPLOYEES

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" **[§88F-1] Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

"County" means the counties of Honolulu, Hawaii, Kauai, and Maui.

"Employee" means a part-time, temporary, seasonal or casual employee, as defined by rules of the board of trustees, who is not eligible to participate in the employees' retirement system of the State under chapter 88.

"State" means the State of Hawaii. [L 1996, c 212, pt of §2]

" **§88F-2 State deferred compensation retirement plan for state and county part-time, temporary, and seasonal or casual employees.** The State may establish a deferred compensation retirement plan in accordance with sections 457 and 3121 of the Internal Revenue Code of 1986, as amended, for the benefit of employees to defer a portion of their compensation to a future period of time. Participation in the plan shall be mandatory, with a mandatory payroll deduction by the employee equal to seven and five-tenths per cent of the employee's gross monthly wages, which shall be contributed to the plan. A county may enter into a formal agreement with the State to extend the State's plan and its provisions to part-time, temporary, and seasonal or casual employees of the county; provided that:

- (1) The agreement designates one of the county's agencies to locally coordinate the plan; and
- (2) The department of human resources development may levy fees on the county pursuant to rules adopted in accordance with chapter 91. [L 1996, c 212, pt of §2; am L 2004, c 178, §2]

" **§88F-3 Board of trustees.** (a) The authority to establish the plan and implement this chapter is vested in the board of trustees which currently administers the state deferred compensation plan under chapter 88E.

(b) The board shall adopt, in accordance with chapter 91, rules necessary to implement this chapter; provided that rules necessary for the plan to be in compliance with federal laws or regulations may be adopted without regard to chapter 91. The board may engage services, as necessary, to establish, administer, or maintain the plan under its direction. An administrator may be engaged only after a solicitation of proposals from interested persons in accordance with specifications deemed appropriate by the board. [L 1996, c 212, pt of §2; am L 2000, c 253, §128]

" **[\$88F-4] Compensation and expenses.** Each trustee shall serve without compensation but shall be reimbursed by the plan for any necessary expense incurred in the performance of the trustee's duties pertaining to the plan. [L 1996, c 212, pt of §2]

" **[\$88F-5] Legal adviser.** The attorney general shall be the legal adviser of the board. [L 1996, c 212, pt of §2]

" **§88F-6 Deferred funds.** Sums deferred under the plan, as well as property and rights purchased with the amounts and income attributable to the amounts, shall be held in trust outside the state treasury in accordance with section 457 of the Internal Revenue Code of 1986, as amended, for the exclusive benefit of participants and their beneficiaries. [L 1996, c 212, pt of §2; am L 1997, c 171, §2; am L 2000, c 253, §129]

" **§88F-7 Investments.** (a) The board may create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred and for the administration of the plan.

(b) Participating employees shall invest their deferred compensation in the investment products permitted under the plan; provided that the investment products shall be provided by companies that are licensed to provide investment products and transact business in the State.

(c) The investment products may include annuities, life insurance, savings accounts, mutual funds, or other types of investment products that are commonly offered in the securities industry or other deferred compensation plans and are determined by the board to be reasonably prudent investment products.

(d) The investment products shall have been reviewed and selected by the board after a competitive bidding process based on the specifications and considerations deemed appropriate by the board.

(e) The investment products shall guarantee a full return of principal.

(f) The investments and investment products shall not be construed to be a prohibited use of general assets of the State.

(g) Nothing in this chapter shall be construed to permit any type of investment prohibited by law. [L 1996, c 212, pt of §2; am L 2008, c 92, §3]

" **§88F-8 REPEALED.** L 2000, c 253, §138.

" **[\$88F-9] Limitation on liability.** The State or county shall not be liable for the sums deferred or the results of any investment product. [L 1996, c 212, pt of §2]

" **[\$88F-10] Deferred amounts as compensation.** Any compensation deferred pursuant to a plan established under this chapter shall be deemed regular compensation, but shall not be included in the computation of federal income taxes withheld on behalf of any participating employee. [L 1996, c 212, pt of §2]

" **[\$88F-11] Costs of the plan.** Costs for implementing and administering the plan shall be borne by the plan and its participants, except for incidental expenses, such as the cost of payroll deductions and the routine processing of forms. [L 1996, c 212, pt of §2]

" **§88F-12 County deferred compensation retirement plan for part-time, temporary, and seasonal or casual employees.** A county may enter into a formal agreement with the State to extend the State's deferred compensation retirement plan and its provisions to part-time, temporary, and seasonal or casual employees of the county or establish a deferred compensation retirement plan independently in accordance with sections 457 and 3121 of the Internal Revenue Code of 1986, as amended, for their respective part-time, temporary, and seasonal or casual employees. A plan so established under this section need not be subject to the other provisions of this chapter, but shall be in compliance with applicable federal laws and regulations. A plan established by a county under this section shall be the sole responsibility of and administered by that county. The board shall not be responsible or liable for any county plan established under this section. [L 1996, c 212, pt of §2; am L 2004, c 178, §3]

" **[\$88F-13] Existing retirement and deferred compensation plans.** This chapter shall not affect any existing retirement or deferred compensation plans established under section 457 of the Internal Revenue Code of 1986, as amended, or chapter 88E. [L 1996, c 212, pt of §2]