

HB 234

**RELATING TO THE EMPLOYEES
RETIREMENT SYSTEM.**

LAB, FIN

HB234



Submit Testimony

Measure Title: RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.
Report Title: Separation Benefits; Voluntary Severance Benefit
Description: Repeals the voluntary severance benefits from Act 1, SSLH 2016, as codified.
Companion:
Package: None
Current Referral: LAB, FIN
Introducer(s): JOHANSON, LUKE, SAIKI

<u>Sort by</u> <u>Date</u>		Status Text
1/19/2017	H	Pending introduction.
1/20/2017	H	Pass First Reading
1/23/2017	H	Referred to LAB, FIN, referral sheet 1
2/6/2017	H	Bill scheduled to be heard by LAB on Thursday, 02-09-17 8:30AM in House conference room 309.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. Section 89E-3, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsection (a) to read:
4 "(a) Notwithstanding section 88-99 or any other law to the
5 contrary, the employees' retirement system may provide,
6 regardless of whether the actuarial value of the system's assets
7 is one hundred per cent of the system's actuarial accrued
8 liability, the benefits authorized under this section. Any
9 employee who receives official notification that the employee's
10 position is being abolished or who is directly affected by a
11 reduction-in-force or workforce restructuring plan, including
12 privatization, proposed by an agency may elect, if the employee
13 is eligible to receive benefits from the employees' retirement
14 system and meets any of the criteria specified in subsection
15 (c), the special retirement benefit provided by this section in
16 lieu of exercising any reduction-in-force rights under chapter
17 89 [~~and in lieu of receiving any severance benefits under~~



1 ~~section 89E-2~~]. To receive the special retirement benefit
2 offered under this section, the employee shall comply with the
3 application and time frame requirements specified in subsection
4 (b)."

5 2. By amending subsection (e) to read:

6 "(e) The head of the agency shall transmit a list of
7 employees who elected and received the special retirement
8 benefit to the board of trustees of the employees' retirement
9 system not less than thirty days but not more than one hundred
10 fifty days prior to the employee's retirement date. The head of
11 the agency shall certify that the employees on the list have in
12 fact selected the special retirement benefit in lieu of
13 [~~receiving the severance benefit under section 89E-2 and~~]
14 exercising any reduction-in-force rights under chapter 89."

15 SECTION 2. Section 89E-4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§89E-4[+] **Restrictions.** No [~~severance benefit or~~]
18 special retirement benefit under this chapter shall be payable
19 to an employee discharged for lawful disciplinary reasons or for
20 reasons other than a reduction-in-force or workforce
21 restructuring plan."



1 SECTION 3. Section 89E-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§89E-5[+] **Reemployment.** Any employee who has received
4 [~~either a severance benefit or~~] a special retirement benefit
5 under this chapter and returns to public service within two
6 years as an employee or contractor shall repay [~~the severance~~
7 ~~benefit or~~] the special retirement benefit to [~~the State or~~] the
8 employees' retirement system[~~, as the case may be,~~] within
9 thirty days of reemployment with a public employer."

10 SECTION 4. Section 89E-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§89E-6[+] **Payments; lapse of unexpended funds.** After
13 payments of all costs associated with the [~~severance benefits~~
14 ~~and~~] special retirement benefits, the public employer's
15 remaining payroll balances shall not be expended for any purpose
16 and shall be lapsed into the appropriate fund."

17 SECTION 5. Section 89E-7, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§89E-7[+] **Reporting requirements; reduction in**
20 **personnel counts.** The head of the agency that provided benefits
21 under this chapter shall:



1 (1) Transmit a report of every position identified for
2 abolishment and vacated under this chapter to the
3 directors of finance and human resources development,
4 who shall abolish these positions from the appropriate
5 budget and personnel files. The governor shall report
6 this information to the legislature no later than
7 twenty days prior to the convening of each regular
8 session beginning with the regular session of 2017;

9 (2) Reduce its personnel count by every position
10 identified for abolishment and vacated under this
11 chapter, whether the former incumbent vacated the
12 position as a result of accepting a [~~severance benefit~~
13 or] special retirement benefit authorized under this
14 chapter or of exercising reduction-in-force rights;
15 and

16 (3) Transmit a list that includes each employee who
17 received benefits under this chapter and the benefit
18 received by the employee to the directors of finance
19 and human resources development."

20 SECTION 6. Section 89E-8, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

1 "[+] (a) [+] The departments of human resources development
2 and budget and finance shall develop and administer guidelines
3 and time frames with the exclusive representatives of affected
4 public employees to implement the [~~voluntary severance benefits~~
5 ~~and~~] special retirement benefits under this chapter. The
6 department of human resources development, the department of
7 labor and industrial relations, the employees' retirement
8 system, and the Hawaii employer-union health benefits trust fund
9 shall work cooperatively to ensure that briefings are provided
10 prior to the implementation of any workforce restructuring plan
11 to educate the employees whose positions are being abolished or
12 who are directly affected by a reduction-in-force or workforce
13 restructuring plan."

14 SECTION 7. Section 89E-10, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§89E-10[+] **Review by employee.** Employees offered a
17 [~~severance benefit or a~~] special retirement benefit shall be
18 given sufficient time to make an informed decision from the date
19 of receiving accurate and complete information about the offer."

20 SECTION 8. Section 89E-2, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§89E-2] Voluntary severance benefit.~~ (a) Any employee
2 entitled to reduction-in-force rights under chapter 89 and who
3 receives official notification that the employee's position is
4 being abolished or who is directly affected by a reduction-in-
5 force or workforce restructuring plan, including privatization,
6 may elect to receive a voluntary severance benefit provided
7 under this section in lieu of exercising any reduction-in-force
8 rights under chapter 89 and in lieu of receiving any special
9 retirement benefit under section 89E-3.

10 ~~(b) A one-time lump sum cash bonus severance benefit shall~~
11 ~~be calculated at five per cent of the employee's base salary for~~
12 ~~every year of service worked, not to exceed ten years, and shall~~
13 ~~not exceed fifty per cent of the employee's annual base salary.~~

14 ~~For the purposes of this section, "annual base salary"~~
15 ~~means an employee's annual salary for the position from which~~
16 ~~the employee is to be separated, excluding all other forms of~~
17 ~~compensation paid or accrued, whether a bonus, allowance,~~
18 ~~differential, or value of leave or compensatory time off~~
19 ~~credits. Compensation excluded from base salary includes~~
20 ~~shortage category differential, night shift differential,~~



H.B. NO. 234

1 ~~overtime, compensatory time off credits, vacation or sick leave~~
2 ~~credits, and workers' compensation benefits.~~

3 ~~(c) A severance benefit shall be in addition to any~~
4 ~~payment owing to the employee upon separation from service,~~
5 ~~including accumulated unused vacation allowances or compensatory~~
6 ~~time credits.~~

7 ~~(d) All severance benefits paid under this section shall~~
8 ~~be subject to applicable state income tax laws and rules.~~

9 ~~(e) A severance benefit provided under this section shall~~
10 ~~not be considered as a part of a discharged employee's salary,~~
11 ~~service credit, or a cost item as defined in section 89-2 when~~
12 ~~calculating retirement benefits or sick and vacation leave."]~~

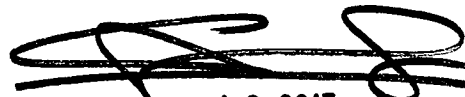
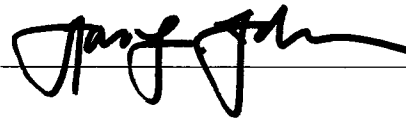
13 SECTION 9. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 10. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 11. This Act shall take effect on July 1, 2017.

19

INTRODUCED BY:



JAN 19 2017



H.B. NO. 234

Report Title:

Separation Benefits; Voluntary Severance Benefit

Description:

Repeals the voluntary severance benefits from Act 1, SSLH 2016, as codified.

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



DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN COMMENTS

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE

TO THE HOUSE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT
ON HOUSE BILL NO. 76, 233, 234

February 9, 2017

8:30 a.m.

Conference Room 309

HB 76 -- RELATING TO SEPARATION BENEFITS

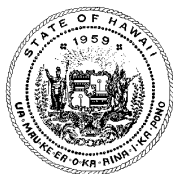
HB 233-- RELATING TO SEPARATION BENEFITS

HB 234 --RELATING TO EMPLOYEES' RETIREMENT SYSTEM

The Department of Budget and Finance appreciates the intent of these measures to clarify when public employees covered under collective bargaining agreements are eligible for severance or special retirement benefits under a termination of their state employment. We are unable to provide a fiscal impact at this time, as we would not know how many employees would choose which option. We will defer to the Office of Collective Bargaining and the Employees' Retirement System regarding potential legal issues should multiple options be offered to public employees.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RYKER WADA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 7, 2017

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Thursday, February 9, 2017
8:30 a.m., Conference Room 309

By

JAMES K. NISHIMOTO
DIRECTOR, DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

House Bill No. 234
Relating to the Employees' Retirement System

(WRITTEN TESTIMONY ONLY)

CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT:

H.B. 234 repeals the voluntary severance benefits from Act 1, SSLH 2016.

The Department of Human Resources Development (DHRD) **has concerns** with H.B. 233 as it appears with the deletion of the separation incentive benefits, employees who are not eligible for retirement benefits would not receive benefits upon termination from State service.

In addition, as the Hawai'i Health Systems Corporation (HHSC) is the employer of the affected employees, the reporting requirements covered in Section 89E-7(1) and (3), Hawaii Revised Statutes, as it relates to DHRD is unnecessary as DHRD has no authority or administrative oversight over the HHSC. Therefore, we respectfully recommend that this section be revised to remove any references to DHRD such that

HHSC would not be required to transmit to DHRD reports relating to positions that are abolished and vacated, and lists that include employees and their benefits. For the same reasons, we also recommend that Section 89E-8, Hawaii Revised Statutes be revised with the removal of any references to DHRD.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
DEPUTY EXECUTIVE DIRECTOR

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII

TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON

HOUSE BILL NO. 234

FEBRUARY 9, 2017, 8:30 A.M.

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Chair Johanson, Vice Chair Holt and Members of the Committee,

H.B. 234 proposes to amend Section 89E, Hawaii Revised Statutes, by repealing the voluntary severance benefits provided by Act 1, SSLH 2016 to employees who may be affected by Act 103, SLH 2015, which allowed for the privatization of Hawaii Health Systems Corporation's (HHSC) Maui Regional facilities. The subsequent benefits provided under Act 1, 2nd Special Session, 2016 (Act 1) authorized HHSC employees facing position abolishment, reduction-in-force, or workforce restructuring to opt to receive either severance benefits or a special retirement benefit from the Employees' Retirement System (ERS) in lieu of exercising any reduction-in-force rights. H.B. 234 would eliminate the severance benefit as a choice and allow only special retirement benefits to eligible employees.

The ERS Board of Trustees has not had the opportunity to review H.B. 234 and therefore has not taken a formal position on this proposal.

Act 1, as it is currently codified, represents an impermissible "cash or deferred arrangement" under the Internal Revenue Code that could jeopardize the tax-qualified status of the ERS.



Employees' Retirement System
of the State of Hawaii

ERS Staff would like to remind this Committee that there is currently a temporary restraining order placed on the implementation of Act 1 until the ERS receives an Internal Revenue Service determination on the risk to ERS's tax-qualified status. H.B. 234 would take away the "choice" offered by Act 1 and by inference remove the "cash or deferred" choice deemed problematic in the Act.

Although severance benefits may be eliminated, the ERS will still be responsible for providing early retirement benefits to approximately 100 additional employees at the cost of an estimated additional \$17.2 million. These costs will be added to the current unfunded actuarial accrued liability of the ERS which as of June 30, 2016 stands at \$12.4 billion with a funded ratio of 54.7% and a funding period of 66 years. As stated during the last legislative session, estimating the actual cost of special retirement benefits under Act 1 is difficult as eligibility parameters are ambiguous and it has no explicit deadline as to when the affected employees have to qualify and file for the special retirement benefit. The ERS would prefer that any accommodation for employees impacted by the Maui Hospital separation be limited to severance benefits. If special retirement benefits are included, the board requests that funding be provided for the same.

Thank you for this opportunity to provide testimony on H.B. 234.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association

February 9, 2017

H.B. 234 – RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 234 which makes amendments to Act 1, Special Session Laws of Hawaii, 2016, by repealing the voluntary severance benefits for employees of the Maui Region of the Hawaii Health Systems Corporation.

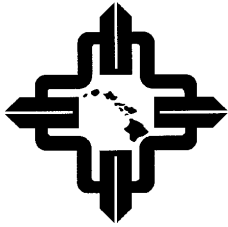
On July 20, 2016, the Legislature overrode the Governor's veto of S.B. 2077, which provided employees in the Maui Region of the HHSC the choice of a cash severance payment or special retirement benefits. Two weeks later, the Employees' Retirement System filed a lawsuit over the legislation's affect on the system's tax exempt status and the court granted a temporary stay on the implementation of Act 1, pending an opinion from the Internal Revenue Service.

The affected employees have been in limbo regarding their employment and retirement benefits for too long. The hospitals' transfer to Kaiser is slated to take effect on July 1, 2017 and employees deserve to know their full benefit package so that they can make the best decisions for themselves and their families. With over 2/3 support in both the House of Representatives and the Senate, the legislative intent to assist displaced employees is clear. This measure, along with other bills on this hearing agenda, serves as a conceptual vehicle to fully vet resolutions to the ERS' pending lawsuit.

Thank you for the opportunity to testify in strong support of passing H.B. 234 to continue this important dialogue.

Respectfully submitted,

Randy Perreira
Executive Director



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare For All"

**House Committee on Labor & Public Employment
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair**

February 9, 2017
Conference Room 309
8:30 a.m.
Hawaii State Capitol

**Testimony Providing Comments on House Bill 234 Relating to the Employees'
Retirement System
Repeals the voluntary severance benefits from Act 1, SSLH 2016, as codified.**

Linda Rosen, M.D., M.P.H.
Chief Executive Officer
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony **providing comments** on HB 234 that repeals the voluntary severance benefits from Act 1, SSLH 2016, as codified.

HHSC respectfully requests that the committee consider that the additional costs of the special retirement benefit contemplated in Act 1, SSLH 2016 and in this bill be paid through a general fund appropriation, and that in no way would that appropriation diminish the amount of additional general fund appropriations requested by HHSC to fund the four remaining HHSC regions.

HHSC is currently facing a cash flow deficit in fiscal year 2017 which will leave HHSC's facilities with extremely low levels of cash on hand as compared to industry norms. Further, HHSC is already asking for an increase in its general fund appropriation base of approximately \$36.5 million and \$34.7 million for fiscal years 2018 and 2019, respectively, just to achieve a break-even cash flow for those fiscal years. The payment of the special retirement benefit as contemplated in Act 1, SSLH 2016, and this bill would represent additional costs to HHSC as the employer. Given the fragile financial condition that HHSC is in, HHSC cannot afford to pay for these benefits without a general fund appropriation. Further, HHSC's priority is to make sure that the safety-net hospitals that it operates has sufficient funding to operate efficiently and effectively for this fiscal year and the next biennium of fiscal years 2018 and 2019.

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February 9, 2017
Hawaii Health Systems Corporation
HB 234

Thank you for the opportunity to testify before this committee. We would respectfully request that this committee take into account our comments on this measure in considering the action to take on this bill.

LABtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 5:33 PM
To: LABtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB234 on Feb 9, 2017 08:30AM*

HB234

Submitted on: 2/6/2017

Testimony for LAB on Feb 9, 2017 08:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HB 234

Late testimony