

HB 233

RELATING TO SEPARATION BENEFITS.

LAB, FIN

HB233



Submit Testimony

Measure Title: RELATING TO SEPARATION BENEFITS.

Report Title: Separation Benefits; Voluntary Severance Benefit; Special Retirement Benefit

Description: Amends Act 1, SSLH 2016, as codified, to offer employees the choice of receiving both a voluntary severance benefit and a special retirement benefit or exercising a reduction-in-force right.

Companion:

Package: None

Current Referral: LAB, FIN

Introducer(s): JOHANSON, LUKE, SAIKI

<u>Sort by 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 SEPARATION BENEFITS.

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

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

3 "(a) Any employee entitled to reduction-in-force rights
4 under chapter 89 and who receives official notification that the
5 employee's position is being abolished or who is directly
6 affected by a reduction-in-force or workforce restructuring
7 plan, including privatization, may elect to receive a voluntary
8 severance benefit provided under this section in lieu of
9 exercising any reduction-in-force rights under chapter 89 [~~and~~
10 ~~in lieu of receiving any special retirement benefit under~~
11 ~~section 89E-3.]; provided that, if the employee qualifies for
12 and elects to receive the special requirement benefit under
13 section 89E-3, the voluntary severance benefits provided in this
14 section shall not be optional and shall be provided to the
15 employee."~~

16 SECTION 2. Section 89E-3, Hawaii Revised Statutes, is
17 amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) Notwithstanding section 88-99 or any other law to the
3 contrary, the employees' retirement system may provide,
4 regardless of whether the actuarial value of the system's assets
5 is one hundred per cent of the system's actuarial accrued
6 liability, the benefits authorized under this section. Any
7 employee who receives official notification that the employee's
8 position is being abolished or who is directly affected by a
9 reduction-in-force or workforce restructuring plan, including
10 privatization, proposed by an agency may elect, if the employee
11 is eligible to receive benefits from the employees' retirement
12 system and meets any of the criteria specified in subsection
13 (c), the special retirement benefit provided by this section in
14 lieu of exercising any reduction-in-force rights under chapter
15 89 [~~and in lieu of receiving any severance benefits under~~
16 ~~section 89E-2.~~]; provided that, if the employee qualifies for
17 and elects to receive the voluntary severance benefit under
18 section 89E-2, the special retirement benefit provided by this
19 section shall not be optional and shall be provided to the
20 employee. To receive the special retirement benefit offered
21 under this section, the employee shall comply with the



1 application and time frame requirements specified in subsection
2 (b)."

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

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

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

15 "[~~+~~]**§89E-5**[~~+~~] **Reemployment.** Any employee who has received
16 ~~[either]~~ a severance benefit ~~[or]~~ and a special retirement
17 benefit under this chapter and returns to public service within
18 two years as an employee or contractor shall repay the severance
19 benefit ~~[or]~~ and the special retirement benefit to the State
20 ~~[or]~~ and the employees' retirement system, ~~[as the case may be,~~



1 respectively, within thirty days of reemployment with a public
2 employer."

3 SECTION 4. Section 89E-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§89E-7[+] **Reporting requirements; reduction in**
6 **personnel counts.** The head of the agency that provided benefits
7 under this chapter shall:

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



1 this chapter or of exercising reduction-in-force
2 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 SECTION 5. Section 89E-10, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§89E-10[+] **Review by employee.** Employees offered a
10 severance benefit [e] and a special retirement benefit shall be
11 given sufficient time to make an informed decision from the date
12 of receiving accurate and complete information about the offer."


13 SECTION 6. 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.

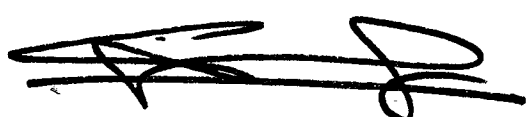
16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2017.

19

INTRODUCED BY: 





H.B. NO. 233

Report Title:

Separation Benefits; Voluntary Severance Benefit; Special Retirement Benefit

Description:

Amends Act 1, SSLH 2016, as codified, to offer employees the choice of receiving both a voluntary severance benefit and a special retirement benefit or exercising a reduction-in-force right.

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. 233
Relating to Separation Benefits

(WRITTEN TESTIMONY ONLY)

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

H.B. 233 amends Act 1, SSLH 2016, as codified, to offer employees the choice of receiving both a voluntary severance benefit and a special retirement benefit or exercising a reduction-in-force right.

The Department of Human Resources Development (DHRD) **has concerns** with H.B. 233 because an appropriation would be needed to support the implementation of the mandatory participation in the separation incentive.

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.

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. 233

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

RELATING TO SEPARATION BENEFITS

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

H.B. 233 proposes to amend Section 89E, Hawaii Revised Statutes, by amending the 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. 233 would allow for both severance and special retirement benefits to eligible employees.

The ERS Board of Trustees has not had the opportunity to review H.B. 233 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 of ERS's tax-qualified status. H.B. 233 would take away the "choice" offered by Act 1 and by inference remove the "cash or deferred" choice deemed problematic in the Act.

Regardless of the cost to the State of Act 1's severance benefits, 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. 233.



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. 233 – RELATING TO SEPARATION BENEFITS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 233 which makes amendments to Act 1, Special Session Laws of Hawaii, 2016, to offer employees the opportunity to receive both a voluntary severance benefit and a special retirement benefit due to the privatization of the Maui Region of the Hawaii Health Systems Corporation.

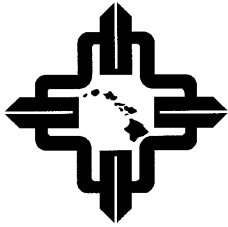
On July 20, 2016, the Legislature overrode the Governor's veto of S.B. 2077, which provided employees in the Maui Region of the HHSC the choice of a cash severance payment or special retirement benefits. Two weeks later, the Employees' Retirement System filed a lawsuit over the legislation's affect on 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. 233 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 233 Relating to Separation
Benefits**

Amends Act 1, SSLH 2016, as codified, to offer employees the choice of receiving both a voluntary severance benefit and a special retirement benefit or exercising a reduction-in-force right.

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 233 that amends Act 1, SSLH 2016, as codified, to offer employees the choice of receiving both a voluntary severance benefit and a special retirement benefit or exercising a reduction-in-force right.

HHSC respectfully requests that the committee consider that the additional costs of the voluntary severance benefit and 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 voluntary severance benefit and 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

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February 9, 2017
Hawaii Health Systems Corporation
HB 233

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.

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.

HB 233

Late testimony