

ACT 63

S.B. NO. 1863

A Bill for an Act Relating to Benefits for Public Officers and Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that it is in the best interest of officers and employees of the State and the various counties for the State and the counties to establish cafeteria plans within the meaning of section 125 of the Internal Revenue Code of 1986, as amended. Eligible cafeteria plans will allow public sector officers and employees to elect to reduce their cash compensation in return for payment by the employer of expenses of eligible benefits.

SECTION 2. Chapter 78, Hawaii Revised Statutes, is amended to add a new part to read as follows:

"PART . CAFETERIA PLANS

§78- Establishment. The employees of the State shall be afforded the opportunity to participate in a wage and salary reduction benefit program which qualifies as a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986, as amended. The cafeteria plan shall allow eligible employees to elect to reduce their pretax compensation in return for payment by the State of the expenses of eligible benefits. As used in this part, "employee" shall be as defined in section 87-1.

§78- Responsible agency; rules. The governor shall assign the responsibility for the implementation and operation of the cafeteria plan to the appropriate department or agency, and the department or agency shall adopt rules pursuant to chapter 91 necessary to implement this part. The rules shall specify eligible employees, eligible expenses, effective dates, and other matters necessary to implement this part."

SECTION 3. Chapter 78, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"CHAPTER 78
[GENERAL PROVISIONS ON] PUBLIC SERVICE"**

SECTION 4. Sections 78-1 to 78-51, Hawaii Revised Statutes, are designated as "Part . General Provisions" of chapter 78, Hawaii Revised Statutes.

SECTION 5. Section 87-3, Hawaii Revised Statutes, is amended to read as follows:

"§87-3 Purpose of the fund. The fund shall be used for the purpose of providing employee-beneficiaries and dependent-beneficiaries with a health benefits plan, provided that the fund may be used for other expenses necessary to effectuate the purpose and provided further that any rate credit or reimbursement from any carrier or any earning or interest derived therefrom shall be used in addition to such purposes to (1) finance state and county contributions for the dental benefits plan for children under the age of nineteen, as described in section 87-4; and (2) finance the employee's portion of the monthly contribution of a health benefits plan for a retired employee, as described in section 87-1(5)(A)(ix), or upon the retired employee's death the retired employee's beneficiary as described in section 87-1(6).

To the extent that contributions are provided for group life insurance benefits in section 87-4, the fund shall also be used for the purpose of providing group life insurance benefits to employees.

The fund may assist the State and the counties to implement and administer cafeteria plans authorized under section 125 of the Internal Revenue Code of 1986, as amended, and under part of chapter 78."

SECTION 6. Section 87-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution equal to the amount established under chapter 89C or specified in the applicable public sector collective bargaining agreement, whichever is appropriate, for each of their respective employee-beneficiaries and employee-bene-

ficiaries with dependent-beneficiaries, [such contributions to], which shall be used [towards] toward the payment of costs of a health benefits plan; provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them. If, however, the State or any of the several counties establish cafeteria plans in accordance with section 125 of the Internal Revenue Code of 1986, as amended, and part of chapter 78, the monthly contribution to the fund for those employee-beneficiaries who participate in a cafeteria plan shall be made through the cafeteria plan. In this event, the payments made by the State or the counties shall include the State's and the counties' respective contributions to the fund and the employee-beneficiary's share of the cost of the health benefits plan selected and authorized by the employee-beneficiary through the cafeteria plan."

SECTION 7. Section 87-6, Hawaii Revised Statutes, is amended to read as follows:

"§87-6 Contributions by an employee-beneficiary. (a) Each employee-beneficiary shall make a monthly contribution to the fund amounting to the difference between the monthly charge of the health benefits plan selected by the employee-beneficiary and the State's and county's contribution to the fund. Nothing in this section shall prohibit any employee-beneficiary from participating in a cafeteria plan authorized under section 125 of the Internal Revenue Code of 1986, as amended, and part of chapter 78.

(b) During the period the health benefits plan selected by an employee-beneficiary is in effect, the employee-beneficiary shall authorize, if allowed under present laws, that [his] the employee-beneficiary's contribution be withheld and transmitted to the fund monthly by the comptroller or finance officer [from whom he receives his] who disburses the employee-beneficiary's compensation, pension, or retirement pay. If, however, an employee-beneficiary's contribution to the fund is not withheld and transmitted to the fund, the employee-beneficiary shall pay [his] the monthly contribution (1) directly to the fund by the tenth day of each month, in the case of an employee-beneficiary who normally receives [his] the employee-beneficiary's compensation from the comptroller of the State, or (2) in the case of all other employee-beneficiaries, to the respective finance officer from whom [he] the employee-beneficiary normally receives [his] compensation for transmittal to the fund by the tenth day of each month.

(c) Notwithstanding any other law to the contrary, the beneficiary of an employee who is killed in the performance of [his] duty, an employee-beneficiary who retired before July 1, 1984, an employee-beneficiary who retired after June 30, 1984, and who had ten years or more of credited service, excluding sick leave, or upon [his] death [his] their beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary, as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of the persons identified in this subsection shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries.

(d) Subsection (a) notwithstanding, an employee-beneficiary's monthly contribution to the fund, amounting to the difference between the monthly cost of the health benefits plan selected by the employee-beneficiary and the State's or appropriate county's contribution to the fund, shall be deemed to include the amount which would have been the employee-beneficiary's contribution if the employee-beneficiary had not elected to participate in the cafeteria plan."

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SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1989.

(Approved May 3, 1989.)