

ACT 212

S.B. NO. 2811

A Bill for an Act Relating to a Deferred Compensation Retirement Plan for Part-time, Temporary, and Seasonal/Casual Employees.

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

SECTION 1. The purpose of this Act is to authorize the creation of a new deferred compensation retirement plan for part-time, temporary, and seasonal or casual employees who are not eligible to participate in the State's existing deferred compensation plan or employees' retirement system. These employees currently contribute to Social Security. By participating in this plan, the part-time, temporary, and seasonal or casual employees will not be required to contribute to Social Security (these employees will still be required to contribute to Medicare). Additionally, the State will not be required to pay the mandatory Social Security contributions, which will result in savings to the State.

Participation in this plan shall be mandatory and the contribution rate shall be seven and five-tenths per cent of the employee's gross monthly wages. The employees will be able to withdraw all of their money from the plan after terminating their employment with the State.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
DEFERRED COMPENSATION RETIREMENT PLAN FOR PART-
TIME, TEMPORARY, AND SEASONAL OR CASUAL EMPLOYEES**

§ **-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.

§ **-2 State deferred compensation retirement plan for 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.

§ **-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 as are necessary to implement this chapter. 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.

§ **-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.

§ **-5 Legal adviser.** The attorney general shall be the legal adviser of the board.

§ **-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 remain an unrestricted asset of the respective state or county jurisdiction.

§ **-7 Investments.** 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. Funds held by the board pursuant to a plan established under this chapter shall be invested in accordance with investment products permitted under the plan; provided that any investment contract entered into shall be made with companies authorized and licensed to do business in the State. Investment products shall be limited to annuities, life insurance, savings accounts, mutual funds, or any combination thereof which 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. Investment products must guarantee a full return of principal. The investments shall not be construed to be a prohibited use of general assets of the State. Nothing in this chapter shall be construed to permit any type of investment prohibited by law.

§ **-8 Custodian of the funds.** The state director of finance shall be the custodian of the funds created under the plan. All payments from the fund shall be made by the director only upon vouchers signed by the chairperson of the board and countersigned by other persons designated by the board.

§ **-9 Limitation on liability.** The State or county shall not be liable for the sums deferred or the results of any investment product.

§ **-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.

§ **-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.

§ **-12 County deferred compensation retirement plan for part-time, temporary, and seasonal or casual employees.** The counties may establish a deferred compensation retirement plan 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 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 shall be the sole responsibility of and administered by that county. The board shall not be responsible or liable for any county plan.

§ -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.”

SECTION 3. This Act shall take effect upon its approval.

(Approved June 17, 1996.)