

ACT 186

S.B. NO. 1315

A Bill for an Act Relating to Education.

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

SECTION 1. Section 303-2, Hawaii Revised Statutes, is amended to read as follows:

“§303-2 Contract for purchase of annuity or investment in custodial account. (a) The department of education and the University of Hawaii, on behalf of any employee of the respective institutions, may enter into a written agreement with any employee to purchase for the employee:

- (1) An annuity contract under section 403(b) of the Internal Revenue Code of 1986, as amended, from an insurer who holds a certificate of authority under section 431:3-201[;] or certificate of registration of dealer in securities under chapter 485, or both, and who complies with the requirements established by the respective institution and agrees to abide by the terms, conditions, rules, or regulations of the respective institution; or
- (2) An annuity contract qualified under section 401(k) of the Internal Revenue Code of 1986, as amended, which provides a nationwide retirement trust for a group of college or university football coaches who, due to the nature of their jobs, change employers frequently.

(b) The University of Hawaii and after December 31, 2003, the department of education may pay amounts to a custodial account established on behalf of the employee pursuant to section 403(b)(7) of the Internal Revenue Code of 1986, as amended.”

SECTION 2. Section 303-3, Hawaii Revised Statutes, is amended to read as follows:

“**§303-3 Withholding.** (a) The department of education and the University of Hawaii may also enter into an agreement under which the employer shall withhold from the salary of the employee the amount of the premiums payable on account of the annuity contract, and shall make such premium payments on behalf of the employee. The department of education and the University of Hawaii may contract with third parties to administer plans to ensure compliance with the Internal Revenue Code of 1986, as amended, state and federal laws, and for the withholding of amounts from the salaries of their employees payable on account of annuity contracts and for making payments on their behalf. Costs for implementing and administering these plans for the University of Hawaii shall be borne by the employees or service providers maintaining annuity contracts[-], as determined by the University of Hawaii. Costs for implementing and administering these plans for the department of education shall be borne by the insurance service providers offering the annuity products, or the annuity entity selling or maintaining the annuity contracts on behalf of the employees of the department of education.

(b) The University of Hawaii and after December 31, 2003, the department of education may also enter into an agreement under which the employer shall withhold from the salary of the employee the amount payable on account of the custodial account, and shall make the payments on behalf of the employee. The University of Hawaii and the department of education may contract with third parties to administer plans [for] to ensure compliance with the Internal Revenue Code of 1986, as amended, state and federal laws and, for the withholding of amounts from the salaries of their employees payable on account of custodial accounts and for making payments on their behalf. Costs for implementing and administering [these plans] the plan for the University of Hawaii shall be borne by the employees or service providers maintaining custodial accounts[-] as determined by the University of Hawaii. Costs for implementing and administering the plan for the department of education shall be borne by the custodial service provider offering the custodial account product, or the custodial entity selling or maintaining the custodial accounts on behalf of employees of the department of education.”

SECTION 3. Section 303-3.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[§303-3.5]~~ **Limitation on liability.** The University of Hawaii, department of education, and the State of Hawaii shall not be held liable for the sums deferred or the results of any investment product.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval, except that the authority of the department of education to pay amounts to a custodial account under sections 303-2(b) and 303-3(b), Hawaii Revised Statutes, shall become effective January 1, 2004.

(Approved May 29, 2001.)