

JAN 21 2016

A BILL FOR AN ACT

RELATING TO SEPARATION BENEFITS.

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

1 SECTION 1. The purpose of this Act is to provide options
2 to assist public employees who may be displaced through the
3 privatization or closure of a state or county facility and
4 reduce the need for layoffs. Specifically, this Act authorizes
5 the state executive branch and other jurisdictions to offer a
6 voluntary severance or a special retirement benefit to its
7 employees who elect to separate from service when their
8 positions are identified for abolishment or when they are
9 directly affected by a reduction-in-force or workforce
10 restructuring plan, including privatization.

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

14 "CHAPTER

15 SEPARATION BENEFITS

16 § -1 Definitions. For the purposes of this chapter:



1 "Agency" or "attached agency" means a political subdivision
2 of state or county government that is administratively attached
3 to a department of state or county government.

4 "Directly affected" means an employee who receives official
5 reduction-in-force notification of displacement from the
6 employee's position because of a senior employee exercising
7 reduction-in-force rights, or because the employee's position is
8 part of a workforce restructuring plan, including privatization.

9 "Employee" means an individual employed by the state or
10 county government or those governments' attached agencies in a
11 position subject to chapter 88, which has been identified for
12 abolishment or directly affected because of a reduction in-force
13 or workforce restructuring plan, including privatization.

14 "Other jurisdictions" means the city and county of
15 Honolulu, the county of Hawaii, the county of Maui, the county
16 of Kauai, the department of education, the judiciary, the Hawaii
17 health systems corporation, the office of Hawaiian affairs, and
18 the legislative branches of the state and county governments.

19 "Reduction-in-force" includes layoffs under chapter 76 or
20 89.



1 "State executive branch" includes the University of Hawaii,
2 but excludes the Hawaii health systems corporation and the
3 department of education, which are considered separate personnel
4 jurisdictions under this chapter.

5 § -2 **Voluntary severance benefit.** (a) Any employee
6 entitled to reduction-in-force rights under chapter 76 or 89 and
7 who receives official notification that the employee's position
8 is being abolished or who is directly affected by a reduction-
9 in-force or workforce restructuring plan, including
10 privatization, may elect to receive a voluntary severance
11 benefit provided under this section in lieu of exercising any
12 reduction-in-force rights under chapter 89 or 89C, as
13 applicable, and in lieu of receiving any special retirement
14 benefit under section -3.

15 (b) A one-time lump sum cash bonus voluntary severance
16 benefit shall be calculated at five per cent of the employee's
17 base salary for every year of service worked, not to exceed ten
18 years, and shall not exceed fifty per cent of the employee's
19 annual base salary.

20 For the purposes of this section, "annual base salary"
21 means an employee's annual salary for the position from which



1 the employee is to be separated, excluding all other forms of
2 compensation paid or accrued, whether a bonus, allowance,
3 differential, or value of leave or compensatory time off
4 credits. Compensation excluded from base salary includes
5 shortage category differential, night shift differential,
6 overtime, compensatory time off credits, vacation or sick leave
7 credits, and workers' compensation benefits.

8 (c) A voluntary severance benefit shall be in addition to
9 any payment owing to the employee upon separation from service,
10 including accumulated unused vacation allowances or compensatory
11 time credits.

12 (d) All voluntary severance benefits paid under this
13 section shall be subject to applicable state income tax laws and
14 rules.

15 (e) A voluntary severance benefit provided under this
16 section shall not be considered as a part of a discharged
17 employee's salary, service credit, or a cost item as defined by
18 section 89-2 when calculating retirement benefits or sick and
19 vacation leave.

20 § -3 **Special retirement benefit.** (a) Notwithstanding
21 section 88-99 or any other law to the contrary, the employees'



1 retirement system may provide, regardless of whether the
2 actuarial value of the system's assets is one hundred per cent
3 of the system's actuarial accrued liability, the benefits
4 authorized under this section. Any employee who receives
5 official notification that the employee's position is being
6 abolished or who is directly affected by a reduction-in-force or
7 workforce restructuring plan, including privatization, proposed
8 by a department may elect, if the employee is a vested member of
9 the employees' retirement system and meets any of the criteria
10 specified in subsection (c), the special retirement benefit
11 provided by this section in lieu of exercising any reduction-in-
12 force rights under chapter 89 or 89C, as applicable, and in lieu
13 of receiving any voluntary severance benefits under section
14 -2. To receive the special retirement benefit offered under
15 this section, the employee shall comply with the application and
16 time frame requirements specified in subsection (b).

17 (b) Any employee who elects to retire and receive the
18 special retirement benefit under this section shall notify the
19 employee's employing department and file a formal application
20 for retirement with the employees' retirement system not less



1 than thirty days or more than one hundred fifty days prior to
2 the date of retirement.

3 (c) Notwithstanding the age and length of service
4 requirements of sections 88-73, 88-281, and 88-331, an employee
5 member shall qualify for the special retirement benefit if, on
6 the employee's retirement date, the employee meets any one of
7 the following criteria:

8 (1) Has at least ten years of credited service as a
9 contributory class A or B member and is at least fifty
10 years of age;

11 (2) Has at least twenty years of credited service as a
12 contributory class A or B member, irrespective of age;

13 (3) Has at least ten years of credited service as a
14 noncontributory class C member or as a class H member
15 and is at least fifty-seven years of age; or

16 (4) Has at least twenty-five years of credited service as
17 a noncontributory class C member or as a class H
18 member, irrespective of age.

19 (d) Any employee who exercises the option of the special
20 retirement benefit under this section because the employee does
21 not qualify with respect to the age and length of service



1 requirements under section 88-73, 88-281, or 88-331, to receive
2 a retirement benefit without penalty, shall not have the
3 retirement benefit reduced in accordance with the actuarial
4 formula normally used by the employees' retirement system for
5 the calculation of early retirement benefits.

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

16 (f) The board of trustees of the employees' retirement
17 system shall make payments with respect to all eligible
18 employees who retire pursuant to this section. The board shall
19 determine the portion of the additional actuarial present value
20 of benefits to be charged to the State based upon retirements
21 authorized under this section. If necessary, the State shall



1 make additional payments to the employees' retirement system in
2 the amounts required to amortize the additional actuarial
3 present value of benefits over a period of five years. The
4 unfunded actuarial present values of benefits payable under this
5 section shall be considered part of the unfunded accrued
6 liability of the employees' retirement system under sections 88-
7 122 and 88-123.

8 § -4 **Restrictions.** No voluntary severance benefit or
9 special retirement benefit shall be payable to an employee
10 discharged for lawful disciplinary reasons or for reasons other
11 than a reduction-in-force or workforce restructuring plan.

12 § -5 **Reemployment.** Any employee who has received either
13 a voluntary severance benefit or a special retirement benefit
14 under this chapter and returns to public service within two
15 years as an employee or contractor shall repay the voluntary
16 severance benefit or the special retirement benefit to the
17 public employer or the employees' retirement system, as the case
18 may be, within thirty days of reemployment with a public
19 employer. An exception under this section may be granted if the
20 new agency seeking to hire the former employee has sought and
21 gained approval from the chief executive of the respective



1 jurisdiction prior to the date of hire. Exceptions under this
2 section may require partial repayment of the voluntary severance
3 benefit or the special retirement benefit on a pro rata basis.
4 Exceptions will be evaluated for their potential benefit to the
5 respective jurisdiction.

6 § -6 Payments; lapse of unexpended funds. After
7 payments of all costs associated with the voluntary severance
8 benefits and special retirement benefits, the public employer's
9 remaining payroll balances shall not be expended for any purpose
10 and shall be lapsed into the appropriate fund.

11 § -7 Reporting requirements; reduction in personnel
12 counts. The head of each affected department or agency that
13 provided benefits under this chapter shall:

- 14 (1) Transmit a report of every position identified for
15 abolishment and vacated under this chapter to the
16 directors of finance and human resources development
17 who shall abolish these positions from the appropriate
18 budget and personnel files. The governor shall report
19 this information to the legislature no later than
20 twenty days prior to the convening of each regular
21 session beginning with the regular session of 2017;



(2) Reduce its personnel count by every position identified for abolishment and vacated under this chapter, whether the former incumbent vacated the position as a result of accepting a voluntary severance benefit or special retirement benefit authorized under this chapter or of exercising reduction-in-force rights; and

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

§ -8 Guidelines; development and administration. The departments of human resources development and budget and finance shall develop and administer guidelines and time frames with the affected public employee unions to implement the voluntary separation benefits and special retirement benefits under this chapter. The department of human resources development, the department of labor and industrial relations, the employees' retirement system, and the Hawaii employer-union health benefits trust fund shall work cooperatively to ensure that briefings are provided prior to the implementation of any



1 workforce restructuring plan to educate the employees of the
2 various departments of the state executive branch, whose
3 positions are being abolished or who are directly affected by a
4 reduction-in-force or workforce restructuring plan.

5 The department of human resources development and the
6 department of budget and finance shall report to the legislature
7 on any restructuring activities initiated because of this
8 chapter no later than twenty days prior to the convening of each
9 regular session beginning with the regular session of 2017.

10 The report shall include a description of the abolished
11 positions, an explanation as to how the new workforce structure,
12 including resulting service delivery changes, will more
13 efficiently serve the needs of the agency's clients, the cost of
14 the benefit per participant, and the total cost to the State.

15 § -9 Matching funds. The governor may provide funds to
16 obtain matching federal moneys to retrain employees in the state
17 executive branch who separated from service under this chapter.

18 § -10 Optional participation by other jurisdictions.

19 The city and county of Honolulu, the county of Hawaii, the
20 county of Kauai, the county of Maui, the department of
21 education, the judiciary, the Hawaii health systems corporation,



1 the office of Hawaiian affairs, or the legislative branch of the
2 State or a county may opt to provide the voluntary severance
3 benefit under section -2 or the special retirement benefit
4 under section -3 to their respective employees under an
5 official reduction-in-force or a workforce restructuring plan as
6 defined by its separation incentives program guidelines and time
7 frames developed and administered by the respective
8 jurisdictions.

9 No civil service employee may elect and receive a
10 combination of reduction-in force, voluntary severance benefit,
11 or special retirement benefit when directly affected by a
12 reduction in-force or workforce restructuring plan. Whenever
13 any of the other jurisdictions, as defined in this chapter, opts
14 to provide the voluntary severance benefit or special retirement
15 benefit, the jurisdiction's separation benefit guidelines and
16 use of the special retirement benefit shall be consistent with
17 this chapter.

18 All references to the state executive branch shall apply to
19 any other jurisdictions, as defined in this chapter, opting to
20 provide the voluntary severance benefit or the special
21 retirement benefit. The chief executive or other appropriate



1 authority of each of the respective other jurisdictions shall
2 ensure that approval of its respective legislative body is
3 obtained before offering the voluntary severance benefit under
4 section -2 or the special retirement benefit under
5 section -3.

6 § -11 Payments to the employer-union health benefits
7 trust fund. Payments for a voluntary severance benefit or a
8 special retirement benefit may be deposited into an account at
9 the employer-union health benefits trust fund. The employer-
10 union health benefits trust fund shall credit the monthly
11 premium cost for health care coverage against that account for
12 the employee who receives either a voluntary severance benefit
13 or a special retirement benefit.

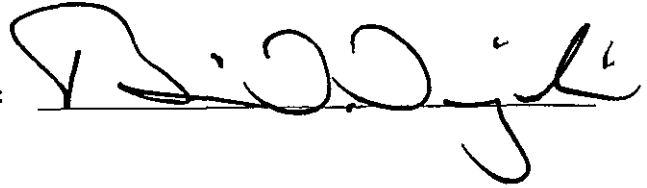
14 § -12 Review by employee. Employees offered a voluntary
15 severance benefit or a special retirement benefit shall be given
16 sufficient time to make an informed decision from the date of
17 receiving accurate and complete information about the offer."



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

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "R. J. Doyle", is written over a horizontal line.

S.B. NO. 2077

Report Title:

ERS; Public Employees; Separation Benefits; Early Retirement

Description:

Authorizes public employees facing position abolishment, reduction-in-force, or workforce restructuring to opt to receive either voluntary severance benefits or a special retirement benefit in lieu of exercising any reduction-in-force rights.

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

