

A BILL FOR AN ACT VETO OVERRIDE

RELATING TO SEPARATION BENEFITS.

ACT No. 1
Approved: we Qub
Dated: July 20, 2016

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

1 **PART I**

2 SECTION 1. The purpose of this part is to provide options
3 to assist public employees who may be displaced through the
4 privatization or closure of a Hawaii health systems corporation
5 facility and reduce the need for layoffs. Specifically, this
6 part authorizes the Hawaii health systems corporation to offer a
7 severance or a special retirement benefit to an employee who
8 elects to separate from service when the employee's position is
9 identified for abolishment or when the employee is directly
10 affected by a reduction-in-force or workforce restructuring
11 plan, including privatization.

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

15 **"CHAPTER**
16 **SEPARATION BENEFITS**

17 § -1 **Definitions.** For the purposes of this chapter:



1 "Actuarial present value" means the difference in value
2 between a member's benefit reflecting termination of service
3 without the special retirement provision and the value of the
4 member's benefit reflecting the special retirement benefit.

5 "Agency" or "attached agency" means the Hawaii health
6 systems corporation.

7 "Directly affected" refers to when an employee receives
8 official reduction-in-force notification of displacement from
9 the employee's position because of a senior employee exercising
10 reduction-in-force rights, or because the employee's position is
11 part of a workforce restructuring plan, including privatization.

12 "Employee" means an individual:

- 13 (1) Employed by the state government or an attached agency
14 in a position subject to chapters 88 and 89;
- 15 (2) Whose position has been identified for abolishment or
16 directly affected because of a reduction-in-force or
17 workforce restructuring plan, including privatization;
18 and
- 19 (3) Whose employment is subject to Act 103, Session Laws
20 of Hawaii 2015.



1 "Exclusive representative" has the same meaning as defined
2 in section 89-2.

3 "Public employer" has the same meaning as defined in
4 section 89-2.

5 "Reduction-in-force" includes layoffs under chapter 89.

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

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

19 For the purposes of this section, "annual base salary"
20 means an employee's annual salary for the position from which
21 the employee is to be separated, excluding all other forms of



1 compensation paid or accrued, whether a bonus, allowance,
2 differential, or value of leave or compensatory time off
3 credits. Compensation excluded from base salary includes
4 shortage category differential, night shift differential,
5 overtime, compensatory time off credits, vacation or sick leave
6 credits, and workers' compensation benefits.

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

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

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

17 § -3 **Special retirement benefit.** (a) Notwithstanding
18 section 88-99 or any other law to the contrary, the employees'
19 retirement system may provide, regardless of whether the
20 actuarial value of the system's assets is one hundred per cent
21 of the system's actuarial accrued liability, the benefits



1 authorized under this section. Any employee who receives
2 official notification that the employee's position is being
3 abolished or who is directly affected by a reduction-in-force or
4 workforce restructuring plan, including privatization, proposed
5 by an agency may elect, if the employee is eligible to receive
6 benefits from the employees' retirement system and meets any of
7 the criteria specified in subsection (c), the special retirement
8 benefit provided by this section in lieu of exercising any
9 reduction-in-force rights under chapter 89 and in lieu of
10 receiving any severance benefits under section -2. To
11 receive the special retirement benefit offered under this
12 section, the employee shall comply with the application and time
13 frame requirements specified in subsection (b).

14 (b) Any employee who elects to retire and receive the
15 special retirement benefit under this section shall notify the
16 employee's employing agency and file a formal application for
17 retirement with the employees' retirement system not less than
18 thirty days or more than one hundred fifty days prior to the
19 date of retirement.

20 (c) Notwithstanding the age and length of service
21 requirements of sections 88-73, 88-281, and 88-331, an employee



1 shall qualify for the special retirement benefit if, on the
2 employee's retirement date, the employee meets any one of the
3 following criteria:

- 4 (1) Has at least five years of credited service as a
5 contributory class A or B member and is at least fifty
6 years of age;
- 7 (2) Has at least twenty years of credited service as a
8 contributory class A or B member, irrespective of age;
- 9 (3) Has at least ten years of credited service as a
10 noncontributory class C member and is at least fifty-
11 seven years of age;
- 12 (4) Has at least twenty-five years of credited service as
13 a noncontributory class C member, irrespective of age;
- 14 (5) A class H member who became a member prior to July 1,
15 2012, has at least five years of credited service and
16 is at least fifty-seven years of age;
- 17 (6) A class H member who became a member prior to July 1,
18 2012, and has at least twenty-five years of credited
19 service, irrespective of age;



1 (7) A class H member who became a member after June 30,
2 2012, has at least ten years of credited service and
3 is at least sixty years of age; or

4 (8) A class H member who became a member after June 30,
5 2012, has at least twenty-five years of credited
6 service and is at least fifty-five years of age.

7 (d) Any employee who exercises the option of the special
8 retirement benefit under this section because the employee does
9 not qualify with respect to the age and length of service
10 requirements under section 88-73, 88-281, or 88-331, to receive
11 a retirement benefit without penalty, shall not have the
12 retirement benefit reduced in accordance with the actuarial
13 formula normally used by the employees' retirement system for
14 the calculation of early retirement benefits.

15 (e) The head of the agency shall transmit a list of
16 employees who elected and received the special retirement
17 benefit to the board of trustees of the employees' retirement
18 system not less than thirty days but not more than one hundred
19 fifty days prior to the employee's retirement date. The head of
20 the agency shall certify that the employees on the list have in
21 fact selected the special retirement benefit in lieu of



1 receiving the severance benefit under section -2 and
2 exercising any reduction-in-force rights under chapter 89.

3 (f) The board of trustees of the employees' retirement
4 system shall make payments with respect to all eligible
5 employees who retire pursuant to this section. The board shall
6 determine the portion of the additional actuarial present value
7 of benefits to be charged to the State based upon retirements
8 authorized under this section. If necessary, the State shall
9 make additional payments to the employees' retirement system in
10 the amounts required to amortize the additional actuarial
11 present value of benefits over a period of five years. The
12 unfunded actuarial present values of benefits payable under this
13 section shall be considered part of the unfunded accrued
14 liability of the employees' retirement system under sections
15 88-122 and 88-123.

16 § -4 **Restrictions.** No severance benefit or special
17 retirement benefit under this chapter shall be payable to an
18 employee discharged for lawful disciplinary reasons or for
19 reasons other than a reduction-in-force or workforce
20 restructuring plan.



1 § -5 **Reemployment.** Any employee who has received either
2 a severance benefit or a special retirement benefit under this
3 chapter and returns to public service within two years as an
4 employee or contractor shall repay the severance benefit or the
5 special retirement benefit to the State or the employees'
6 retirement system, as the case may be, within thirty days of
7 reemployment with a public employer.

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

13 § -7 **Reporting requirements; reduction in personnel**
14 **counts.** The head of the agency that provided benefits under
15 this chapter shall:

16 (1) Transmit a report of every position identified for
17 abolishment and vacated under this chapter to the
18 directors of finance and human resources development,
19 who shall abolish these positions from the appropriate
20 budget and personnel files. The governor shall report
21 this information to the legislature no later than



1 twenty days prior to the convening of each regular
2 session beginning with the regular session of 2017;

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

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

14 § -8 Guidelines; development and administration. The
15 departments of human resources development and budget and
16 finance shall develop and administer guidelines and time frames
17 with the exclusive representatives of affected public employees
18 to implement the voluntary severance benefits and special
19 retirement benefits under this chapter. The department of human
20 resources development, the department of labor and industrial
21 relations, the employees' retirement system, and the Hawaii



1 employer-union health benefits trust fund shall work
2 cooperatively to ensure that briefings are provided prior to the
3 implementation of any workforce restructuring plan to educate
4 the employees whose positions are being abolished or who are
5 directly affected by a reduction-in-force or workforce
6 restructuring plan.

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

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

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

20 § -10 **Review by employee.** Employees offered a severance
21 benefit or a special retirement benefit shall be given



1 sufficient time to make an informed decision from the date of
2 receiving accurate and complete information about the offer."

3 PART II

4 SECTION 3. State contributions; Hawaii health system
5 corporation employees hired after June 30, 1996, and retired.

6 (a) This section shall apply to state contributions to the
7 Hawaii employer-union health benefits trust fund for Hawaii
8 health systems corporation employees hired after June 30, 1996,
9 and who were separated from service as a result of Act 103,
10 Session Laws of Hawaii 2015.

11 (b) The State, through the department of budget and
12 finance, shall pay to the Hawaii employer-union health benefits
13 trust fund:

14 (1) For retired employees based on the self plan with at
15 least nine years but fewer than twelve years of
16 service, a monthly contribution equal to one-half of
17 the base medicare or non-medicare monthly contribution
18 set forth under section 87A-33(b), Hawaii Revised
19 Statutes; provided that retired employees who were
20 hired after June 30, 1996, but before July 1, 2001,
21 with dependent-beneficiaries, as that term is defined



1 in section 87A-1, Hawaii Revised Statutes, shall be
2 eligible for a monthly contribution equal to one-half
3 of the base medicare or non-medicare monthly
4 contribution for two-party or family plans, as
5 applicable, set forth in section 87A-33(b), Hawaii
6 Revised Statutes;

- 7 (2) For retired employees based on the self plan with at
8 least twelve years but fewer than twenty years of
9 service, a monthly contribution equal to seventy-five
10 per cent of the base medicare or non-medicare monthly
11 contribution set forth under section 87A-33(b), Hawaii
12 Revised Statutes; provided that retired employees who
13 were hired after June 30, 1996, but before July 1,
14 2001, with dependent-beneficiaries, as that term is
15 defined in section 87A-1, Hawaii Revised Statutes,
16 shall be eligible for a monthly contribution equal to
17 seventy-five per cent of the base medicare or non-
18 medicare monthly contribution for two-party or family
19 plans, as applicable, set forth in section 87A-33(b),
20 Hawaii Revised Statutes;



- 1 (3) For retired employees based on the self plan with
2 twenty or more years of service, a monthly
3 contribution equal to one hundred per cent of the base
4 medicare or non-medicare monthly contribution set
5 forth under section 87A-33(b), Hawaii Revised
6 Statutes; provided that retired employees who were
7 hired after June 30, 1996, but before July 1, 2001,
8 with dependent-beneficiaries, as that term is defined
9 in section 87A-1, Hawaii Revised Statutes, shall be
10 eligible for a monthly contribution equal to one
11 hundred per cent of the base medicare or non-medicare
12 monthly contribution for two-party or family plans, as
13 applicable, set forth in section 87A-33(b), Hawaii
14 Revised Statutes; and
- 15 (4) Upon the death of a retired employee hired after
16 June 30, 1996, but before July 1, 2001, for the
17 dependent-beneficiary who becomes eligible as an
18 employee-beneficiary, a monthly contribution equal to
19 paragraphs (1), (2), or (3), as applicable; and upon
20 the death of a retired employee hired after June 30,
21 2001, for the dependent-beneficiary who becomes



1 eligible as an employee-beneficiary, a monthly
2 contribution equal to one-half of paragraphs (1), (2),
3 or (3), as applicable.

4 PART III

5 SECTION 4. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 5. This Act shall take effect upon its approval,
12 and shall apply to employees of the Hawaii health systems
13 corporation who are separated from service as a consequence of
14 Act 103, Session Laws of Hawaii 2015.