

PTS Deferred Compensation Retirement Plan Employee Information Booklet

**for
State of Hawaii
Part-Time, Temporary
and Seasonal/Casual
Employees**



Contents

Introduction.....	1
Questions and Answers.....	2
Plan Document.....	6
Article 1. Purpose.....	6
Article 2. Definitions.....	6
Article 3. Administration	7
Article 4. Eligibility	7
Article 5. Enrollment and Participation	7
Article 6. Assets	8
Article 7. Investments	8
Article 8. Accounts and Reports	8
Article 9. Vesting.....	9
Article 10. Distributions of Amounts Deferred Less Than or Equal to Three Thousand Five Hundred Dollars (\$3,500).....	9
Article 11. Distributions of Amounts Deferred Greater Than Three Thousand Five Hundred Dollars (\$3,500).....	9
Article 12. Plan-to-Plan Transfers.....	10
Article 13. Amendment or Termination of the Plan.....	10
Article 14. Miscellaneous	10
Article 15. Applicable Law.....	10

PTS (Part-Time, Temporary, and Seasonal/Casual Employees) Plan Information Booklet

Chapter 88F of the Hawaii Revised Statutes authorizes the State to implement this PTS Deferred Compensation Retired Plan (PTS Plan) for part-time, temporary, and seasonal/casual employees of the State, who are not eligible to participate in the State Employees' Retirement System. Your contribution to this PTS Plan *replaces your contribution to Social Security* (a Medicare contribution is still required).

To help you understand the PTS Plan better, this booklet contains commonly asked questions and answers, and the "Plan Document" which provides further details on the Plan. If, after reading this booklet, you have any questions regarding the PTS Plan, please call the Investment Provider/Administrator, Comprehensive Financial Planning/Life Insurance Company of the Southwest (CFP/LSW), at 596-7006 (neighbor islands may call toll free at 1-800-600-7167) between 8:00 a.m. and 5:00 p.m. (Hawaii Standard Time) weekdays (excluding holidays) or fax your questions to 591-1109.

Questions & Answers

PTS Plan Information

1. Who must be covered by the PTS Deferred Compensation Retirement Plan (PTS Plan)?

Employees who are not members or retirees of the State Employees' Retirement System (ERS). Typically, these would include:

- Part-time employees who work in positions of less than 20 hours per week or are appointed at less than 50% FTE (full time equivalent).
- Temporary non-civil-service employees serving in an appointment of less than 90 days (e.g., 89-day hires).
- Seasonal employees.
- Casual employees.

If you received this booklet and feel you are enrolled in the PTS Plan in error because you are a member or retiree of the ERS, notify your employer right away.

2. Do I have to participate in this PTS Plan?

Yes. This plan is mandatory unless you are excluded from participation (see Q&A #3). Although you will be automatically enrolled, you must complete an Enrollment Form so Comprehensive Financial Planning/Life Insurance Company of the Southwest (CFP/LSW), the Investment Provider/Administrator, will have your home address, beneficiary information, etc.

3. Are there any employees who do not have to participate in this Plan? What about ERS retirees?

Yes. For a listing of excluded employees, refer to section 4.2 on page 7 of the Plan Document in the back of this booklet.

Also excluded from this Plan are State employees (serving in a PTS appointment) who are members or retirees of ERS.

a. How do I know if I am a member of the ERS?

- ERS membership for State employees is indicated on the following State forms:
- DOE certificated employees - SF-5A, Notification of Personnel Action
- DOE classified employees – CP/SSP5, Dept. of Education
- Notification of Personnel Action
- University of Hawai`i employees - PNF, Payroll Notification Form
- Judiciary employees – JUDHR001, Notification of Personnel Action
- Hawai`i Health System Corp. (HHSC) Employees – Employee Transaction Report (ETR)
- Employees of all other State Executive Branch departments - Employee Personnel Action(s) Report (EPAR)

You are an ERS member if:

- Your Retirement Group code is one of these six numeric digits: 1,2,4,5,6 or 8; and your FICA code is one of these four letters: A,B,C, D or H.

- Any employee whose employment action is NOT done through the above listed forms and whose Retirement Group and FICA codes are NOT one of the above digits or letters is NOT a member of the ERS.

4. *If I hold two or more jobs with the State, must I be covered under this Plan ?*

Not necessarily. If you are currently a member of the State ERS through at least one of your jobs, you need not enroll in the PTS Plan. If you are in this situation, be sure to let your employer know right away to prevent problems with erroneous enrollment and payroll deductions.

If you hold two or more jobs with the State in which you are in PTS appointments for each, you will be enrolled in the PTS Plan for each job. You need to complete an Enrollment Form at each of your work sites and list all of the PTS appointment(s) you have at each particular work site. You also need to complete another Enrollment Form when you are hired into a second PTS appointment at the same work site.

5. *What is the required contribution for the PTS Plan?*

Each pay period, 7.5% of your gross pay will be deducted from your paycheck in place of the 6.2% amount for Social Security. Since this 7.5% will be deducted before state and federal taxes are applied, your net pay should not be much different than if you contribute to Social Security. Below is an example of a typical employee’s paycheck:

<i>How 6.2% Equals 7.5%</i>		
	Social Security	PTS Plan
Gross monthly salary	\$1,000.00	\$1,000.00
Less 7.5% contribution to PTS	0.00	75.00
Taxable Income	\$1,000.00	\$ 925.00
Less 15% Federal income Tax*	150.00	138.75
Less 2% State Income Tax**	20.00	18.50
Less 6.2% Social Security	62.00	0.00
Less 1.45% Medicare	14.50	14.50
Net Paycheck	\$ 753.50	\$ 753.25
* Assumes 15% income tax bracket		
** Assumes 2% income tax bracket		

6. *How do I know if a PTS Plan contribution is being deducted from my paycheck?*

Your paycheck stub will show a code of “DC015” under the DEDUCTIONS/REDUCTIONS column. The amount of your deduction should equal 7.5% of your gross pay.

7. *If I’m in a PTS appointment at more than one work site, do I need to complete an Enrollment Form for each work site?*

Yes. You need to complete an Enrollment Form at each of your work sites and list all of the PTS appointments you have at each particular work site. You need to complete another Enrollment Form when you are hired in a new PTS appointment at the same work site.

8. ***Most retirement programs require employees to serve a number of years before they are “vested” (become eligible for benefits). Are there special vesting rules for PTS employees?***

No. PTS employees are fully vested (100%) as soon as they are enrolled in the Plan.

9. ***Will my account be credited with interest?***

Yes. Rates are set periodically by Life Insurance Company of the Southwest. The current minimum interest guarantee is 3%, which means the interest rate cannot go below 3%, but can be higher.

10. ***How can I keep track of how much I am contributing to the PTS Plan and the interest earnings?***

You will be issued an annual statement reflecting contributions and earnings in February of each year. If you change your address, be sure to call CFP/LSW at 596-7006 (neighbor islands may call toll-free at 1-800-600-7167) so that they can update your address information and send you your annual statement.

In addition, LSW and its sub-contractor, National Benefits Services, LLC, have made available a secured website that provides participant account information. To log onto your personal web account, go to: www.nbsbenefits.com

11. ***If the PTS Plan is taking the place of Social Security, why do I still have to pay the Medicare tax? I thought Medicare was covered under Social Security?***

Social Security and Medicare are separate programs – each funded by its own tax. Your Medicare taxes are used to provide health benefits coverage for the aged and disabled.

12. ***If I am a University of Hawaii or Department of Education employee and also contribute to a 403(b) tax deferred annuity, who can help me determine the maximum amount I can legally defer?***

Call your tax-deferred annuity agent or CFP/LSW at 596-7006 (neighbor islands may call toll-free at 1-800-600-7167).

13. ***When and how may I receive the retirement funds that have been invested in the PTS Plan?***

The earliest time you may receive funds is when you permanently separate from all State employment. To receive the funds, call CFP/LSW at 596-7006 (neighbor islands may call toll-free at 1-800-600-7167) and request a Separation From Service form.

14. ***How soon will I receive my PTS funds?***

You can generally expect to receive disbursement of your PTS funds approximately 60 to 90 days from CFP/LSW’s receipt of your Separation from Service Form and verification of your separation from service.

15. ***What options do I have with my PTS funds if I separate from State service?***

If your account balance is \$3,500 or less, you will receive a lump sum distribution. If your account balance is over \$3,500, you may choose to receive your money in a lump sum or in annual installments for a period not to exceed five years.

16. ***When I receive a distribution of my PTS funds, will income taxes be withheld? Will there be any penalties when I get the moneys after I leave State employment?***

State and federal income taxes will not be withheld on your contributions into the PTS Plan. When you receive your distribution from the Plan, 20% in Federal taxes will automatically be withheld. The amount of State taxes that will be withheld from your Plan distribution will be

based on the State tax exemption you claimed on the W-4 forms you completed at the time you were hired. There are no penalties and you should receive your contributions plus interest less any applicable tax withholding.

17. *If I go to work for another employer (private sector), can I transfer my balance in the PTS Plan?*

You may be able to transfer your PTS Plan balance if your new employer offers a Deferred Compensation Plan authorized by Section 457 of the Internal Revenue Code which accepts transfers. Call CFP/LSW at 596-7006 (neighbor islands may call toll-free at 1-800-600-7167) to assist you in determining if you are able to transfer your PTS Plan balance.

18. *What happens to my accumulated funds if I die prior to retirement or permanent separation from service?*

Your contributions plus interest less any applicable tax withholding will be paid to the beneficiary listed on your Enrollment Form once your beneficiary notifies CFP/LSW of your death.

19. *What if I change my address or want to change my beneficiary?*

Call CFP/LSW at 596-7006 (neighbor islands may call toll-free at 1-800-600-7167). Remember, CFP/LSW needs your current address to mail your annual statements.

20. *What happens to my accumulated PTS funds if I get a State job that makes me eligible for the Employees' Retirement System?*

You may leave your money in the PTS Plan or enroll with the regular deferred compensation plan and transfer your PTS funds.

21. *What does "separation from service" mean? If I am serving consecutive 89-day appointments, is the one day break period between appointments considered a separation from service so I can get my PTS money refunded?*

A separation from service occurs when there is a permanent termination of all employment with the State, and you do not intend to return to work for the State. If you are an 89-day hire and get re-hired after a one-day break-in-service, a separation from service has not occurred under the Internal Revenue Code because the termination is not permanent.

22. *What will happen if I forget to notify CFP/LSW that I permanently terminated my employment with the State?*

After one year of no payroll deductions to the PTS Plan, CFP/LSW will mail a written request to ascertain whether a Separation From Service has occurred. Once the appropriate documentation is submitted and a verification is done, a distribution will be processed.

The above questions and answers represent summarized highlights of the PTS Plan. It is recommended that you review Hawaii Revised Statutes chapter 88F, Hawaii Administrative Rules chapters 14-56 to 14-61 (these are available for review at the following locations: Hawaii State Library, Hawaii & Pacific Section, 478 South King Street, Honolulu, 96813; Kahului Public Library, 90 School Street, Kahului, 96732; Hilo Public Library, 300 Waiuanuenue Avenue, Hilo, 96720; and Lihue Public Library, 4344 Hardy Street, Lihue, 96766), and the Board's "Plan Document" (which was approved on March 6, 2001, and is reprinted on the following pages) for a complete and current overview of the PTS Plan, since the Statutes, Administrative Rules, and Plan Document may be amended from time to time. If any provisions of the above conflict, the order of preference shall be as follows: Statutes, Administrative Rules, Plan Document, and the Questions and Answers.

STATE OF HAWAII PTS DEFERRED COMPENSATION RETIREMENT PLAN

PLAN DOCUMENT

Pursuant to chapter 88F of the Hawaii Revised Statutes (hereinafter HRS), the Board of Trustees of the State of Hawaii Deferred Compensation Plan(s) establishes and adopts the following State of Hawaii Deferred Compensation Retirement Plan for Part-Time, Temporary, and Seasonal/Casual Employees (hereinafter Plan). It is intended that the Plan shall be an “eligible deferred compensation plan” under Internal Revenue Code (hereinafter Code) section 457(b). It is also intended that each eligible Employee of the State, through his participation in the Plan, shall be deemed to be a “member of a retirement system” of a State, political subdivision or instrumentality under section 3121(b)(7)(F) of the Code and the regulations promulgated thereunder. Finally, it is intended that the Plan shall be a “governmental plan” under section 3(32) of the Employee Retirement Income Security Act of 1974, as amended, and shall therefore be exempt from Title I of such Act. The Plan shall be effective July 1, 1997.

ARTICLE 1. PURPOSE

- 1.1 The purpose of the Plan is to provide a deferred compensation retirement plan for part-time, temporary, and seasonal/casual employees who are not eligible to participate in the State’s Employees’ Retirement System (ERS) or deferred compensation plan under chapter 88E, HRS. Part-time, temporary, and seasonal/casual employees shall be required to contribute seven and five-tenths per cent (7.5%) of their gross wages to the Plan, in lieu of contributing to Social Security (a contribution to Medicare shall still be required). The seven and five-tenths per cent (7.5%) shall be withheld by the Employer each pay period and shall be invested by the Board in the manner allowed under chapter 88F, HRS. There shall be no employer contribution.
- 1.2 In accordance with federal and state tax laws, Amounts Deferred under the Plan are intended to be excludable from gross income for federal and state tax purposes, until they are paid or otherwise made available to the Participant or Beneficiary.
- 1.3 Participation in the Plan shall not be considered as an employment contract between the Employer and the Employee, nor as giving the Employee any right to continued employment.

ARTICLE 2. DEFINITIONS

- 2.1 Whenever used in the Plan, the following capitalized words and phrases shall have the meanings set forth below, unless a different context is clearly expressed:
 - (a) “Amounts Deferred” means compensation withheld under the Plan and any interest income resulting from the investment of the compensation withheld.
 - (b) “Beneficiary” means a person(s) designated by a Participant, a Participant’s estate, or any person, whose rights under the Plan are derived as a result of the Participant’s death.
 - (c) “Board” or “Board of Trustees” means the State of Hawaii Deferred Compensation Board of Trustees established under chapter 88E, HRS.
 - (d) “Employer” means the State of Hawaii, which includes, but is not limited to, the Judiciary, Legislature, University of Hawaii, and Department of Education.
 - (e) “Investment Provider” means a person or company engaged by the Board to provide the investment product(s) pursuant to section 88F-7, HRS, and serve as the administrator of the Plan pursuant to section 88F-3, HRS.
 - (f) “Normal Retirement Age” means age 62.
 - (g) “Part-time, Temporary, Seasonal/Casual Employee” or “Employee” means any person employed by the State of Hawaii who is not eligible to participate in the State ERS or regular deferred compensation plan, or who is not excluded under section 4.2 of this Plan Document. (e.g., employees working less than 3 months or thirty-day emergency hires).
 - (h) “Participant” means an “Employee” in the Plan.
 - (i) “Plan Year” means January 1 to December 31.
 - (j) “Separation From Service” shall have the same meaning as provided in section 402(d)(4)(A)(iii) of the Code, and shall include, but not be limited to, termination, retirement, or death.

- 2.2 The masculine or feminine and the singular or plural shall each be deemed to include the other unless the context clearly indicates otherwise.

ARTICLE 3. ADMINISTRATION

- 3.1 The Board may engage services, as necessary, to establish, administer, and maintain the Plan under its direction.
- 3.2 The Investment Provider shall administer the Plan on behalf of the Board in accordance with sections 457 and 3121 of the Code and the regulations thereunder. The Investment Provider shall also represent the Employer in matters concerning the administration of the Plan.
- 3.3 The Board is authorized to adopt, amend, or repeal rules for the administration of the Plan in accordance with chapter 91, HRS.
- 3.4 Any costs which are incurred in the administration of the Plan (except for incidental expenses such as payroll deductions and routine processing of forms) shall be borne by the Plan and its Participants, as required under chapter 88F, HRS. Accordingly, the Board shall determine the costs associated with implementing and administering the Plan and shall have these costs withheld or collected in the manner it deems feasible.

ARTICLE 4. ELIGIBILITY

- 4.1 Only Part-time, Temporary, Seasonal/Casual Employees as defined in section 2.1(g) of this Plan Document may defer compensation under the Plan.
- 4.2 Employees excluded under the Plan are those employees who are: (1) members of the State of Hawaii ERS; (2) mandatorily excluded from Social Security coverage under the Social Security Act; (3) excluded by written agreement with the Social Security Administration under section 218 of the Social Security Act; (4) excluded under the Code; or (5) excluded under any other State or Federal law. These excluded employees include, but are not limited to, the following:
- (a) Substitute teachers in the department of education;
 - (b) Students regularly attending classes in the educational institutions in which they are working;
 - (c) Employees hired temporarily to handle such disaster emergencies, such as fires, floods, storms, earthquakes, hurricanes, etc.;
 - (d) Election officials and workers who are paid less than the threshold amount mandated by law (i.e., \$1,100 in calendar year 2001);
 - (e) Persons hired through programs to relieve unemployment, such as services of welfare recipients performed in return for assistance payments because the primary intent of such programs is to provide assistance to the needy;
 - (f) Persons who are members of the ERS of the State of Hawaii, and are receiving benefits from the ERS or who are eligible to retire under ERS guidelines without early retirement penalties;
 - (g) Patients or inmates working in a hospital, home, or other institution;
 - (h) Nonresident aliens holding F-1, J-1, M-1, or Q-1 visas;
 - (i) Persons who are in multiple positions with the State, at least one of which makes the employee a member of the State ERS and that membership meets the minimum level of benefits required under section 3121 of the Code and the regulations thereunder;
 - (j) Graduate assistants who are full-time or part-time students and whose research or classes are related to their masters or doctorate degree;
 - (k) Student nurses whose services are performed in a hospital or training school when enrolled and regularly attending classes; and
 - (l) Independent contractors.

ARTICLE 5. ENROLLMENT AND PARTICIPATION

- 5.1 Enrollment in the Plan shall be mandatory and all eligible Employees shall be automatically enrolled on: (a) the effective date of the Plan; or (b) subsequent date of hire. An enrollment form shall be completed by the Participant and forwarded to the Investment Provider.
- 5.2 A mandatory deduction of seven and five-tenths per cent (7.5%) of the Participant's gross wages shall be deducted and withheld each pay period.

- 5.3 In the event of a Participant's death, Amounts Deferred shall be payable to the Beneficiary designated in writing by the Participant. If no Beneficiary is designated by the Participant, if the designated Beneficiary is no longer living on the date of the Participant's death, or if the designated Beneficiary is unable to be located, Amounts Deferred shall be payable to the following persons in the following order:
- (a) The surviving spouse, or, if none;
 - (b) Natural or adopted children, in equal shares, or, if none;
 - (c) Parents, in equal shares, or, if none;
 - (d) Brothers and sisters, in equal shares, or, if none;
 - (e) Stepchildren, in equal shares, or, if none;
 - (f) Participant's estate.
- 5.4 An Employee who participates in another section 457, section 403(b) tax sheltered annuity, 401(k), or 402(h)(1)(B), or other deferred compensation plan under the Code shall be responsible for adjusting the amount deferred in that other plan, to ensure the maximum allowable amount that can be deferred annually is not exceeded. The maximum amount that may be deferred for each taxable year by a Participant shall be thirty-three and one-third per cent (33-1/3%) of the Participant's includable compensation (as defined in regulations regarding section 457 of the Code) for the taxable year or eight thousand five hundred dollars (\$8,500), whichever is less. The \$8,500 limit shall automatically increase when the U.S. Treasury Department periodically adjusts the figure to reflect inflation. Any violation of the limit set forth in this section on the part of an individual shall in no way adversely affect the status of the Plan as an "eligible deferred compensation plan" under section 457(b) of the Code.

ARTICLE 6. ASSETS

- 6.1 All assets of the Plan (including Amounts Deferred, property and rights to property purchased with the Amounts Deferred, and income attributable to Amounts Deferred, property, or rights to property) shall be held in trust in accordance with section 457 of the Code for the exclusive benefit of Participants and their Beneficiaries, until paid or otherwise made available to a Participant or Beneficiary under the Plan.
- 6.2 Neither a Participant nor a Beneficiary shall have any property interest whatsoever in any specific asset of the Employer on account of participation in the Plan.
- 6.3 The right to receive any payment under the Plan is non-assignable and non-transferable. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Board/Plan.
- 6.4 Except as otherwise required by law, Amounts Deferred under the Plan shall not be subject to attachment, garnishment, or execution, or be transferable by operation of law in the event of bankruptcy or insolvency of a Participant or otherwise.
- 6.5 Amounts Deferred that are unclaimed may be handled in accordance with the Uniform Unclaimed Property Act, chapter 523A, HRS.

ARTICLE 7. INVESTMENTS

- 7.1 The Board is authorized to enter into a contract with an Investment Provider to provide the investment product(s) for the Plan.
- 7.2 The Board is authorized to determine the type of investment product(s) that shall be available under the Plan. However, the investment product shall guarantee a full return of principal. The Board may add or eliminate an investment product or company under the Plan. It may also direct that additional investments shall not be made in a particular investment product or company under the Plan.
- 7.3 Amounts Deferred under the Plan shall be invested in the product(s) selected by the Board.
- 7.4 Any action taken by the Board regarding the investment of Amounts Deferred shall not be considered as guaranteeing any return on investment.

ARTICLE 8. ACCOUNTS AND REPORTS

- 8.1 To facilitate orderly administration of the Plan, the Investment Provider shall maintain a deferred compensation retirement account for each Participant on behalf of the Board. However, the maintenance of the account shall not give a Participant any rights except as otherwise provided in the Plan.
- 8.2 Each Participant's account shall be credited with the amount of compensation deferred/withheld and shall be further adjusted by any earnings resulting from investments made under Article 7 of this Plan Document and any costs for implementing and administering the Plan, as authorized by the Board.

- 8.3 The Investment Provider shall provide each Participant with written reports at least once annually on the Participant's deferred compensation retirement account, and at the time a distribution is made, as authorized by the Board.
- (a) The written reports shall include, but not be limited to:
 - (1) The accumulated amounts of compensation which have been deferred and invested;
 - (2) Any amounts credited to a Participant's account by way of interest, dividends, or other proceeds flowing from his accumulation; and
 - (3) The balance of such Participant's account.

ARTICLE 9. VESTING

- 9.1 Participants shall have a one hundred per cent (100%) nonforfeitable right to all Amounts Deferred.

ARTICLE 10. DISTRIBUTIONS OF AMOUNTS DEFERRED LESS THAN OR EQUAL TO THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500).

For Participants whose Amounts Deferred is equal to or less than three thousand five hundred dollars (\$3,500), the following shall apply:

- 10.1 **Earliest Distribution.** Amounts Deferred shall not be made available to a Participant or his/her Beneficiary earlier than Separation From Service. A Separation From Service shall not be deemed to have occurred in situations where the employer knowingly intends to resume the employer-employee relationship or the employee is aware of being rehired with the State (e.g., a thirty-day (30) emergency hire).
- 10.2 **Separation From Service.** A Participant shall notify the Investment Provider in writing when a Separation From Service occurs. After verification of the Separation From Service and completion of all documentation required by the Board and Investment Provider, a lump sum distribution of Amounts Deferred shall be paid to the Participant within sixty (60) days, unless the Participant elects a plan-to-plan transfer in accordance with Article 12 of this Plan Document.
- 10.3 **No Contributions for One Year.** At least once each plan year, as determined by the Board, the Investment Provider shall mail a written request to the last known address of each Participant who has had no contributions made on their behalf for a period of one year; provided that the Participant did not receive a similar letter in a prior plan year. The purpose of this written request is to ascertain whether a Separation From Service has occurred. Upon the Participant's submission of appropriate documentation and verification of a Separation From Service, the Investment Provider shall process a distribution within sixty (60) days.
- 10.4 **Distribution to Beneficiary.** Upon the death of a Participant, the Beneficiary shall notify the Investment Provider of the Participant's death. After verification of the Participant's death and completion of all documentation required by the Board and Investment Provider, a lump sum distribution of Amounts Deferred shall be paid to the Beneficiary within sixty (60) days.
- 10.5 Notwithstanding any section in this Article 10 of this Plan Document, all distributions shall be made in accordance with sections 457 and 3121 of the Code.
- 10.6 Upon distribution of Amounts Deferred, the Investment Provider shall withhold applicable federal and state taxes and shall provide the Participant or Beneficiary, as applicable, with the appropriate statement for income tax purposes.

ARTICLE 11. DISTRIBUTIONS OF AMOUNTS DEFERRED GREATER THAN THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500)

For Participants whose Amounts Deferred is greater than three thousand five hundred dollars (\$3,500), the following shall apply:

- 11.1 **Earliest Distribution.** Amounts Deferred shall not be made available to the Participant or his/her Beneficiary earlier than Separation From Service. A Separation From Service shall not be deemed to have occurred in situations where the employer knowingly intends to resume the employer-employee relationship or the employee is aware of being rehired with the State (e.g., a thirty-day (30) emergency hire).
- 11.2 **Latest Commencement of Distribution.** The payment to a Participant of Amounts Deferred shall commence not later than the later of:
- (a) Sixty (60) days after the close of the Plan year in which the Participant attains Normal Retirement Age; or,
 - (b) Sixty (60) days after the close of the Plan year in which the Participant has a Separation From Service.
- 11.3 **Election of Distribution.** No later than thirty (30) days after the close of the calendar year in which the Participant separates from service, the Participant shall irrevocably elect a time of distribution which is no later than the latest time period listed in section 11.2 of this Plan Document and a form of distribution listed in section 11.4 of this Plan Document.

Participants who fail to elect a time or form of distribution within this time period shall be deemed to have elected a lump sum distribution which shall be paid within sixty (60) days after the close of the Plan Year in which the Participant has a Separation From Service.

- 11.4 Form of Distribution. A Participant may elect to receive one of the following methods of distribution: (1) lump sum or (2) substantially nonincreasing annual installments over a period not to exceed five (5) years.
- 11.5 Distribution to Beneficiary. Upon the death of a Participant, the Beneficiary shall notify the Investment Provider of the Participant's death. After verification of the Participant's death and completion of all documentation required by the Board and Investment Provider, a lump sum distribution of Amounts Deferred or remaining Amounts Deferred shall be paid to the Beneficiary within sixty (60) days.
- 11.6 Notwithstanding any section in this Article 11 of this Plan Document, all distributions shall be made in accordance with sections 457 and 3121 of the Code.
- 11.7 Upon distribution of Amounts Deferred, the Investment Provider shall withhold applicable federal and state taxes and shall provide the Participant or Beneficiary, as applicable, with the appropriate statement for income tax purposes.

ARTICLE 12. PLAN-TO-PLAN TRANSFERS

- 12.1 When a Participant has a Separation From Service or loses eligibility to participate in the Plan, the Participant may elect to transfer the Amounts Deferred into any other plan established under section 457 of the Code and which provides for plan-to-plan transfers. The Participant shall notify the Investment Provider of the desire to exercise a plan-to-plan transfer after Separation From Service or the loss of eligibility to participate in the Plan. The Participant shall also complete any documentation required by the Investment Provider.
- 12.2 The Plan shall not accept the transfer of a Participant's previously deferred amounts under another deferred compensation plan.

ARTICLE 13. AMENDMENT OR TERMINATION OF THE PLAN

- 13.1 The Board is authorized to amend or terminate the Plan at any time. In the event of termination of the Plan, the Participants shall be considered as having withdrawn from the Plan on the effective date of the Plan's termination. Participants shall be treated as though a Separation From Service occurred, deferrals shall cease, and Amounts Deferred shall be payable.

ARTICLE 14. MISCELLANEOUS

- 14.1 The Board is authorized to determine any matters concerning the rights of Participants and Beneficiaries under the Plan, and the Board's determination shall be final and binding on the Participants and Beneficiaries.
- 14.2 The Board, the Employer, and their agents shall be held harmless by a Participant and the Participant's Beneficiaries, heirs, successors, and assigns for all acts performed under the Plan in good faith, including, but not limited to, the investment of Amounts Deferred.
- 14.3 The Board does not represent or guarantee that any particular federal or state tax consequence will occur because of participation in the Plan.
- 14.4 There shall be no unforeseeable emergency withdrawals allowed under the Plan.

ARTICLE 15. APPLICABLE LAW

- 15.1 The Plan shall be construed under the laws of the State of Hawaii.
- 15.2 The Plan shall be interpreted consistently with sections 457 and 3121 of the Code and all regulations thereunder.

AMENDED this 6th day of March 2001.

Hawaii

Board of Trustees of the State of
Deferred Compensation Plan

By: _____

Presented by
The Department of Human Resources Development
STATE OF HAWAII

Rev. Nov 2006