

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
ACT 179 ACKNOWLEDGEMENT FORM

Check one: [] Civil Service Appointment [] Non-Civil Service Appointment (89-day, TAOL) [] Exempt Appointment

Department: _____ Position No: _____

Job Title: _____ Geographic Location: _____

Salary: _____ Pay Grade: _____ Step: _____ BU: _____

Name: _____ SSN: XXX-XX-_____

The Employees' Retirement System of the State of Hawaii is intended to be a qualified retirement plan under Section 401(a) of the Internal Revenue Code (Code). The Code prohibits distribution of retirement benefits prior to an employee's retirement. If a retiree is re-employed without a bona fide separation from State or County service, the retiree may not be considered to be retired for purposes of the Code. Information on Act 179, SLH 2010 from ERS shall be provided with this Act 179 acknowledgement form.

After December 31, 2010, an ERS "retirant" (retiree) may not be re-employed in a State or county position which is excluded from ERS membership without suspension of the retirant's benefits unless (1) the ERS retirant has taken a six (6) consecutive calendar month break from State or County employment and (2) there was no agreement made prior to the retirant's retirement (if the retirant retired after December 31, 2010) for the return to work by the retirant. Positions that are excluded from ERS membership include:

- Short-term or temporary appointments of three months (90 days) or less,
Less than 50% FTE (full-time equivalent),
Other positions described in section 6-21-14, Hawaii Administrative Rules, or
Positions excluded by the ERS Board of Trustees pursuant to Hawaii Revised Statutes ("HRS") section 88-43 or that are specifically described in other sections of HRS chapter 88 (such as HRS section 88-54.2) or in other parts of the HRS (such as HRS section 201B-2).

An ERS retirant may be re-employed in certain positions without suspension of the retirant's benefits if (1) the ERS retirant has taken a twelve (12) consecutive calendar month break from State or County employment and (2) there was no agreement made prior to the retirant's retirement (if the retirant retired after December 31, 2010) for the return to work by the retirant. These positions are

- Civil Service or Exempt (100% full-time equivalent), in which the position is deemed to be Act 179 Labor Shortage Category or Act 179 Difficult-to-Fill as determined by the Department of Human Resources Development Director.

ACKNOWLEDGEMENT

I, _____, have read the above statement and received an informational sheet regarding Act 179, SLH 2010.

Please check the appropriate box:

- I am a retiree currently receiving benefits from the Employees' Retirement System (ERS) of the State of Hawaii, and have been appointed to a position that has been deemed labor shortage or difficult to fill, or is excluded from ERS membership. By checking this box, I understand I am required to complete the ERS' Form ERS-209, Certification of Compliance with Requirements for Employment of a Retirant.
I am a retiree currently receiving benefits from the ERS of the State of Hawaii, and I have been appointed to a position which is included in ERS membership. By checking this box, I understand I am required to complete the ERS Form EC&B1, Membership Enrollment Form, to re-enroll as an active member of the ERS, and my pension and other retirement benefits will be suspended.
I attest that I am not receiving and have never received any benefits from the ERS of the State of Hawaii as a retiree.

_____ Date _____ Signature

EMPLOYING AGENCY

_____ Date _____ Director, DPO or other Authorized Personnel

Note: This form is to be retained in the employee's official personnel jacket.

Returning to Work?

Employees' Retirement System (ERS) January 2011

Effective January 1, 2011, all ERS retirees employed by the State or county must meet the following requirements under Section 88-9 (Act 179) , Hawaii Revised Statutes:

- (1) A six (6) consecutive calendar month break in State or county employment prior to the first day of employment if the retiree is employed in a position that is excluded from ERS membership. For example, short term employment of less than 50% full time equivalence (FTE), temporary employment of 3 months or 90 days or less, substitute teacher, etc. The 6 month break could have occurred at anytime after your retirement date

OR

- (2) A twelve (12) consecutive calendar month break in State or county employment prior to the first day of employment if the retiree is employed in a position identified as a labor shortage or difficult to fill position.

The purpose of this law is to protect and preserve the tax exempt status of the ERS by providing remedies for the ERS against the employer and retirant if the retirant is employed in violation of the statutes and Internal Revenue Code of 1986. Any violation of this law results in remedies against the employer and retirant.

The State employers include, and are not limited to, the State executive branch, the University of Hawaii, the Research Corporation of the University of Hawaii, the Hawaii Health Systems Corporation, the Department of Education, the Office of Hawaiian Affairs, the Judiciary, the Legislative branch of the State. The County employees include the City and County of Honolulu and the Counties of Hawaii, Kauai, and Maui.

Please be advised that the law does not prohibit the employment of retirants who are re-enrolled as active ERS members when they return to State or county employment. Upon re-enrollment, the retirant's pension and other retirement benefits will be suspended until the member retires again.

Should you consider re-employment back to State or county employment, check with that employing Personnel Office.