

UNIVERSITY OF HAWAI'I
ACT 179 ACKNOWLEDGEMENT FORM
BOR EMPLOYEES
(Civil Service Employee use form HRD 380)

Name: _____ Job Title: _____

Campus/School/Program: _____

Appointment Date: _____ FTE: _____ Pos. No. _____

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.
Form ERS-212 on Act 179, SLH 2010 from ERS shall be provided with this 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, County or the Research Corporation of the University of Hawai'i (RCUH) employment and (2) there was no agreement made prior to the retirant's retirement 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, County or RCUH employment and (2) there was no agreement made prior to the retirant's retirement for the return to work by the retirant. These positions are

- ▶ Board of Regents (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 University President.

EMPLOYEE'S ACKNOWLEDGEMENT

I, _____, have read the above statement and Form ERS-212 regarding Act 179, SLH 2010 and understand that any inaccurate information that results in a violation of Chapter 88, HRS, and/or the Internal Revenue Code may result in penalties imposed by the ERS.

Please check the appropriate box:

- I am a retiree currently receiving retirement benefits from the Employees' Retirement System (ERS) of the State of Hawaii, and have been appointed to a position which is excluded from ERS membership and my ERS pension and other retirement benefits will continue without loss or interruption. ***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 and have not been employed by the State, RCUH or any county from _____ to _____ during the time I have been retired.***
- I am a retiree currently receiving retirement 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 Hawai'i as a retiree.

Date

Employee Signature

EMPLOYING PROGRAM

I certify that I have reviewed administrative procedure A9.580 "Employment of Employees' Retirement System (ERS) Retirants" and understand the requirements for employment of a retirant and the consequences to the employee and to the campus/school/program if the requirements for employment are not met.

Date

Dean/Director or other Authorized Personnel

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

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 retiree if the retiree 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 retiree.

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 retirees who are re-enrolled as active ERS members when they return to State or county employment. Upon re-enrollment, the retiree'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.