DEPARTMENT OF PERSONNEL SERVICES

Adoption of Chapter 14-51
Hawaii Administrative Rules

November 17, 1989

SUMMARY

Chapter 14-51, Hawaii Administrative Rules, entitled "Premium Conversion Plan", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 14

DEPARTMENT OF PERSONNEL SERVICES

SUBTITLE 5

STATE OF HAWAII CAFETERIA PLAN

CHAPTER 51

PREMIUM CONVERSION PLAN

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SUBCHAPTER 1

PURPOSE AND DEFINITIONS

§14-51-1 Purpose. SLH 1989, Act 63, authorizes the governor of the State of Hawaii to establish a legally enforceable cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986, as amended, for the exclusive benefit of eligible employees of the State. Subtitle 5 of Title 14, Administrative Rules, is adopted to implement and administer the State of Hawaii cafeteria plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-2 Definitions. As used in this chapter, unless a different meaning is clearly intended by the context:

"Allocated amount" means the amount of compensation reduction, if any, authorized by the employee which shall equal the eligible expenses associated with the component plan elected by the employee.

"Benefit election date" means July 1 of each plan year or such other date as the plan administrator may establish in lieu of this date. For a newly eligible employee, benefit election date also means the first day such employee is eligible for benefits under a component plan.

"Benefit election form" means the form provided by the plan administrator or designated parties for the purpose of electing to participate in this plan.

"Code" means the Internal Revenue Code of 1986, as amended, or corresponding provisions of subsequent superseding revenue laws.

"Compensation" means all remuneration paid in cash to an employee by the employer during any plan year, including an employee's basic salary, wages, bonus, commissions, overtime pay, shift differentials, any other supplemental compensation, including premium pay and longevity pay.

"Compensation reduction" means the reduction of an employee's "compensation" as defined in section 14-51-2 in return for the payment by the employer of "eligible expenses" as defined in section 14-51-2.

"Component plan" means:

(1) Any health benefit plan contracted for by the Hawaii Public Employees Health Fund under chapter 87, HRS, which requires employee contributions; and

(2) Any employee organization health benefit plan approved by the Hawaii Public Employees Health Fund Board of Trustees for employer contribution transfers, provided that such plan provides to the plan administrator such information and documentation as the plan administrator may determine to be necessary or desirable, at any time and from time to time, to establish to the plan administrator's satisfaction that each of the following requirements has been met by such plan:

(A) The component plan is an "accident or health plan" within the meaning of section 105(e) of the Code;

(B) Any other requirements applicable to the determination of whether benefits provided under the plan constitute "qualified benefits" within the meaning of regulations promulgated under section 125 of the Code are satisfied.

"Eligible expenses" means the cost of any required employee monthly contributions which are necessary for employees and/or their eligible dependents to be covered pursuant to the terms of any component plan in which the employee has elected to participate.

"Employee" means any person who is eligible to enroll in a component plan and who is employed by the State of Hawaii. However, the term employee will not apply to such person if that person is subject to a collective bargaining agreement which specifically prohibits participation in this plan.

"Employer" means the State of Hawaii.

"Period of coverage" means a plan year, except that in the case of an employee who is newly eligible to participate in a component plan, it shall mean the period commencing on the date the employee is first eligible to participate in such component plan and ending on the last day of such plan year.

"Plan" means this Premium Conversion Plan.

"Plan administrator" means the "plan administrator" provided for in Subchapter 5.

"Plan year" means the twelve-month period beginning on July 1 and ending on the following June 30 or any other 12-month period the plan administrator may establish in lieu of such date. However, the first plan year shall begin on January 1, 1990 and end on June 30, 1990.

"Regulations" means the applicable regulations issued by the Internal Revenue Service, the United States Department of Labor, or any other governmental authority and any temporary rules or releases promulgated by such authorities pending the issuance of such regulations, and as they may be amended from time to time. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

SUBCHAPTER 2

ELIGIBILITY AND ENROLLMENT

§14-51-11 Eligibility. (a) A person shall be eligible to participate in this plan only:

(1) If the person is employed by the State of Hawaii; and

(2) If the person is eligible for benefits under a component plan.

(b) Eligibility shall commence on the date the employee first becomes eligible for benefits under a component plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-12 Enrollment. (a) An employee may enroll in this premium conversion plan by completing a benefit election form(s) during a designated enrollment period held prior to the employee's benefit election date. For a newly eligible employee, the enrollment period shall be the period within 31 days of the date the employee first becomes eligible for participation under this plan.

(b) While an employee is a participant in this plan, any required employee monthly contributions for eligible expenses will be paid by the employer, and such payment shall constitute a nontaxable benefit to the employee.

(c) Enrollment in this plan shall constitute an employee's election to include all eligible expenses for all component plans the employee is enrolled in. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

SUBCHAPTER 3

BENEFIT ELECTIONS

§14-51-21 Filing of benefit elections. (a) All benefit election forms and other communications from any employee or other person to the plan administrator required or permitted under this plan shall be:

(1) In a form as prescribed from time to time by the plan administrator;

(2) Mailed by first-class mail or delivered to locations as specified by the plan administrator; and

(3) Deemed to have been given and delivered only upon receipt by the plan administrator or the delegated representatives at such locations.

(b) Each employee shall file with the benefit election form(s) information as the plan administrator may specify, and no employee or other person shall have any rights or be entitled to any benefits under this plan unless the information is filed by or with respect to the employee.

(c) Each employee shall be responsible for notifying the employee organization plan representative or their delegated representatives of any election or changes on the benefit election forms. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-22 Periods during which elections may be made; effective date of coverage. Subject to the conditions and limitations of this plan and the component plans, an employee may elect to have compensation reduced and to have the employer pay eligible expenses by submitting the benefit election form(s) required under section 14-51-21 to the plan administrator, or the delegated representative(s), as follows:

(1) At least thirty-one days prior to the beginning of the plan year to which the benefit election form applies, in which case coverage shall become effective on the first day of the plan year; or

(2) In the case of a newly eligible employee, within thirty-one days of the date such employee is eligible under a component plan. Coverage shall become effective on the first day of the month following the date the employee files the benefit election form(s) with the plan administrator or the delegated representatives. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-23 Duration of elections. (a) An employee's benefit election shall remain in effect for the duration of the person's employment or the duration of this plan unless canceled or changed as provided below:

(1) An employee may voluntarily cancel or change a benefit election during a designated enrollment period, in which case the cancellation shall become effective at the beginning of the following plan year.

(2) An employee may make a new benefit election, or may cancel or change an existing benefit election pursuant to the conditions and limitations specified in section 14-51-24. The new benefit election or change shall become effective on the first day of the month following the date the employee files a benefit election form with the employing agency. The cancellation shall become effective on the last day of the month in which the employee files a benefit election form with the employing agency.

(3) The plan administrator may cancel an employee's benefit election because the employee is no longer eligible for benefits under a component plan, in which case the cancellation shall become effective as of the same date on which the component plan coverage is canceled, and the employee may not make a new benefit election until the next designated enrollment period.

(4) An employee's benefit election shall be canceled and such employee's participation in this plan shall cease at the end of the plan year in which the termination of employment occurred, except:

(A) An employee may cancel his benefit election upon termination from service.

(B) The benefit election of an employee who terminates from service but is re-employed during the same plan year and who continues enrollment in or newly enrolls in at least the same component plan(s) with the same coverage as that in effect at the time of the termination from service shall be deemed to continue without interruption upon re-employment.

(C) The benefit election of an employee who terminates from service but is re-employed during the same plan year and who does not continue enrollment or enroll in at least the same component plan(s) with the same coverage as that in effect at the time of the termination from service shall be canceled upon re-employment unless such change is on account of one of the conditions listed under section 14-51-24(a).

(D) An employee whose benefit election is voluntarily or involuntarily canceled shall be ineligible to re-enroll in the plan until the next enrollment period.

(5) Upon termination of this plan pursuant to section 14-51-61, all benefit elections shall be canceled as provided for by section 14-51-63.

(b) An employee on a leave of absence without pay shall be eligible to continue coverage in the plan provided that the employee makes any after-tax contributions required to continue coverage under the component plan in which the employee has elected to participate. If the component plan coverage is canceled as a result of non-payment of contributions, the benefit election authorization shall, likewise,

be canceled as of the same cancellation effective date. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-24 Changes in elections. (a) A benefit election may be canceled or changed prior to the end of a period of coverage, if both of the following conditions are met:

(1) The cancellation or change is on account of and is consistent with a change in family status. Changes of family status include: marriage, divorce, or the annulment of marriage; employment or loss of employment of a spouse which results in a change in health care coverage available from the spouse's employer; the birth or adoption of a child, or the acquisition of a foster child; the loss of eligibility of the last dependent child for coverage under the employee's health care plan; transfer to a non-eligible employment classification; moving from the geographic area covered by the employee's carrier's plan or moving into an area where other component plans are available; a change to a new employment classification where other component plans are available or where the employee's carrier's plan is not available; and the joining of eligible dependents to the employee's household.

(2) A corresponding change in the employee's component plan enrollment is acceptable under the administrative rules of the Hawaii Public Employees Health Fund.

(b) Any election, cancellation, or change shall remain in effect until a subsequent change is properly made by the employee. A participating employee must notify the plan administrator or delegated representative(s) by submitting the required form(s) within 31 days of a change in personal status or return to employment as described in section 14-51-23(a)(4) if the employee wishes to enroll, cancel, or otherwise change a benefit election under the provisions of this section.

(c) Coverage shall take effect as specified in

section 14-51-23(a)(2).

(d) Employee organizations and their employee organization plan representatives shall be responsible for ensuring that cancellations or changes are permitted in accordance with the provisions of this section. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-25 Review. The plan administrator or the delegated representative(s) will review each benefit election form that is submitted by an employee to determine whether it is correct and is accompanied by any required documentation. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-26 Rejection and cancellation; notification. (a) An application for benefit election shall be rejected or canceled if:

(1) The form is incomplete;

(2) An entry in the form is inconsistent with the plan or this chapter; or

(3) The applicant is not eligible under a component plan.

(b) If an application is rejected or canceled, the applicant shall be notified, in writing, of the action and the reasons therefore and shall have appeal rights as provided under section 14-51-51. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-27 Level of payment. Subject to the conditions and limitations of the plan, an employee may elect to have the employer pay monthly employee contributions for self only and family enrollments required under the terms of the component plan in any plan year. No payment will be made by the employer if no eligible expenses are incurred. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

SUBCHAPTER 4

FUNDING AND PAYMENT OF BENEFITS

§14-51-31 Funding. All benefits under this plan shall be funded through compensation reduction elections authorized by participating employees. The compensation received during a period of coverage by each participating employee shall be reduced by the allocated amount. Compensation reduction will be prorated over each payroll period. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-32 Funding limitation. Compensation reduction shall be limited to the amount of eligible expenses in any period of coverage. Except in the case of the occurrence of an event defined in section 14-51-24(a), an employee cannot change an election during a period of coverage. In the event the required employee monthly contribution level necessary for continued coverage under a component plan changes during a plan year, the actual amount of compensation reduction will be changed by an identical amount. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-33 Payment of benefits. Subject to the conditions and limitations of this plan and the employee's available compensation, the employer shall pay the eligible expenses for the component plan(s) in compliance with the employee's election, and such payment shall constitute a nontaxable benefit to the employee. The plan administrator shall designate the comptroller or the finance officer to reduce the employee's compensation by the amount authorized by the employee and disburse the same amount as payment for the selected component plan premium(s) in accordance with the compensation reduction election authorized by the employee. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-34 Forfeiture of unused compensation reduction amounts. Amounts of compensation reduction will be used only for eligible expenses actually incurred during the period of coverage for which such designation applies. Any amount of compensation reduction designated by the employee which has not been paid on behalf of the employee for eligible expenses at the close of the plan year will be forfeited by the employee and revert in whole to the employer. Employee organizations and their employee organization plan representatives shall be responsible for providing a monthly accounting of any amounts received by the employee organization on behalf of an employee which were not paid for eligible expenses during the applicable plan year. Employee organizations shall return all unpaid amounts to the plan administrator within 120 calendar days. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-35 Description of benefits other than cash. The types and amounts of benefits available under each component plan, the requirements for participating in each such plan, and the terms and conditions of coverage and benefits under each such plan are as set forth from time to time in the component plans. The benefit descriptions in each of the component plans, as in effect from time to time, are by this reference incorporated into this plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

SUBCHAPTER 5

ADMINISTRATION

§14-51-41 Plan administrator. The director of personnel services of the State of Hawaii shall be the administrator of this plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-42 Authority. The plan administrator shall:

(1) Have authority to control and manage the administration of this plan, and to delegate such authority subject to any procedure duly adopted by the employer; and

(2) Be the named fiduciary under this plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-43 Removal. The plan administrator may be removed, with or without cause, and a new plan administrator may be appointed by the governor of the State of Hawaii. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-44 Powers and duties. The plan administrator shall administer this plan and shall have the powers and duties specified in this plan to take all action and make all decisions necessary or proper to carry out this plan. The determination of the plan administrator as to any questions involving the general administration and interpretation of this plan shall be conclusive as to all parties thereto. Any discretionary action to be taken under this plan by the plan administrator with respect to employee eligibility, benefits, and reimbursements, shall be uniform in their nature and applicable to all persons similarly situated. Without limiting the generality of the forgoing, the plan administrator shall have the following powers and duties:

(1) To require any person to furnish such information as the plan administrator may reasonably request for the purpose of the proper administration of this plan as a condition to receiving any benefit under this plan;
(2) To make and enforce rules and prescribe the use of forms as the plan administrator deems necessary for the administration of this plan;
(3) To interpret this plan, and to resolve ambiguities, inconsistencies, and omissions;
(4) To decide on questions concerning this plan and the eligibility of any employee to participate therein;
(5) To select and/or hire advisors and appoint qualified parties to handle the day-to-day administrative requirements of this plan; and
(6) To delegate to any or each state agency responsibility for the day-to-day administration of this plan.
[Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-45 Accounts. The employer shall maintain appropriate accounts showing the fiscal transactions of this plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-46 Reliance on advisors. The plan administrator or any person to whom the plan administrator may delegate any duty or power in connection with administering this plan, and the employer and the elected and appointed officials, and employees thereof, shall be entitled to rely conclusively upon, and shall be fully protected in any action taken or suffered by them in good faith in reliance upon any actuary, accountant, consultant, counsel, or other person selected by the plan administrator. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-47 Fiduciary responsibilities. The plan administrator and delegated representative(s) shall use ordinary care and reasonable diligence in the performance of the duties hereunder, but shall not be personally liable by virtue of any contract, agreement, bond, or other instrument made or executed, unless resulting from willful misconduct. The plan administrator shall not be liable for the neglect, omission, or wrongdoing of any actuary, counsel or any person to whom any authority, powers, or duties have been delegated by the plan administrator. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-48 Administration expenses. All expenses incurred prior to termination of this plan that shall arise in connection with the administration of this plan, including but not limited to administrative expenses and compensation, and other expenses and charges of any actuary, accountant, counsel, specialist, or other person who shall be employed by the plan administrator in connection with the administration thereof, shall be paid by the employer. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-49 Delegation. The plan administrator may authorize any representative(s) to make any payment on behalf of the plan administrator, to execute or deliver any instrument or to handle the day-to-day general administration of this plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-50 Disputes. An employee may request a review of any denial by the plan administrator as outlined in section 14-51-51. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-51 Appeals procedure. (a) Any employee or the duly authorized representative of such employee, whose application for enrollment or change in enrollment is denied, in whole or in part, or whose enrollment is canceled, may appeal for a review of the decision by submitting within thirty-one days after receiving written notice of the denial, a written statement:

(1) Requesting a review of the application for enrollment or change in enrollment or the cancellation of enrollment by the plan administrator;

(2) Setting forth all of the reasons upon which the request for review is based and all facts in support thereof; and

(3) Setting forth any other issues or comments which the employee deems relevant to the application.

The plan administrator shall act upon each such appeal within sixty days after either receipt of the employee's request for review by the plan administrator or receipt of any additional materials reasonably requested by the plan administrator from such employee, whichever occurs later.

(b) The plan administrator shall make a full and fair review of each application and any materials submitted by the employee or the employee's duly authorized representative in connection therewith and may require the employer or the employee to submit within thirty days following a written notice from the plan administrator such additional facts, documents, or other evidence as is deemed necessary or advisable in the sole discretion of the plan administrator in making such a review.

(c) On the basis of the review, the decision of the plan administrator shall be final and conclusive upon all persons. If the plan administrator sustains the denial or cancellation of the application, in whole or in part, the plan administrator shall give written notice of the decision to the employee setting forth the specific references to the pertinent plan provisions on which the plan administrator's decision is based. Such written notice shall be given within one hundred twenty days of the date the appeal was filed.

[Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

SUBCHAPTER 6

AMENDMENT AND TERMINATION

§14-51-61 Amendment by the employer. The employer intends that this plan will be permanently maintained. However, the employer reserves the right at any time to amend, suspend, or terminate the plan, in whole or in part, and for any reasons, and to adopt any amendment or modification thereto, all without the consent of any employee or other persons. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-62 No diversion of assets. No amendment, suspension, or termination shall be made which would:

(1) Cause or permit the assets of this plan to be used for any purpose other than the payment of eligible expenses; or

(2) Cause or permit the assets of this plan to inure (other than through payments made pursuant to this plan) to the benefit of any individual. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-63 Termination of plan. Upon termination of this plan, the compensation received by each employee shall stop being reduced as described in section 14-51-31. In this event the compensation thereafter received by the employee will equal the amount the employee would have received if this plan had never been implemented. However, amounts designated into the component plans prior to termination of this plan will not be refunded to the employee and shall be forfeited.
[Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

SUBCHAPTER 7

GENERAL PROVISIONS

§14-51-71 Employment rights. Nothing contained in this plan shall give the employee the right to be retained in the employment of the employer or affect the right of the employer to dismiss any employee. The adoption and maintenance of this plan shall not constitute a contract between the employer and any employee or consideration for, or an inducement to, or condition of the employment of any employee. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-72 Benefit; enforceability. This plan has been established, and shall be maintained, for the exclusive benefit of the employees of the employer. The employer intends that each employee's rights under this plan shall be legally enforceable. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-73 Physical or other disability. If the plan administrator shall find that any person to whom, or on behalf of whom, any amount is payable under this plan, is unable to care for such person's affairs because of illness or accident, or being a minor, or death, then any payment due such person shall be made to the person's estate. Any such payment shall be a complete discharge of the liability of the employer, the plan administrator, and this plan. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-74 Transmittal of notices. All notices, statements, reports, and other communications from the plan administrator to any employee or other person required or permitted under this plan shall be deemed to have been duly given when delivered to, or

when mailed by first-class mail, postage prepaid and addressed to such employee or other person at the address last appearing on the records of the employer. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-75 Controlling law. This plan and all rights thereunder shall be governed by and construed in accordance with the laws of the State of Hawaii. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-76 Text prevails over captions. The headings and subheadings of this chapter for the plan are included herein solely for the convenience of reference, and if there be any conflict between such headings and subdivisions and the text of this plan, the text shall control. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-77 Rules of construction. Whenever used in the plan, the masculine gender shall include the feminine, and the singular shall include the plural. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-78 Computation of time. Whenever a period of time is stated in these rules as a number of days from an event, the period shall be computed in calendar days, excluding the first day of the event. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-79 Successors and assigns. This plan shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-80 Employee organization. Each employee organization whose benefit plan qualifies as a component plan under these rules shall submit to the plan administrator a letter which:

(1) Identifies the name and address of the person who is authorized to represent the employee organization; and

(2) States that its health benefit plan will comply or has complied with the following requirements:

(A) It certifies that it will comply with these administrative rules and regulations.

(B) It agrees to maintain reasonable accounting and enrollment records and agrees to furnish such reports as may be requested by the plan administrator.

(C) Its accounting and enrollment records will be located in the State of Hawaii.

(D) It will permit the plan administrator, the State comptroller, or their representatives to audit and examine its records for compliance with these rules at reasonable times and places as may be designated by the plan administrator or the State comptroller. If the compliance audit reveals any evidence of non-compliance with these rules, a full audit in the area of non-compliance may be ordered. An employee organization subject to the full audit agrees to pay for such an audit.

(3) It agrees to indemnify the State of Hawaii if, through its negligence, carelessness or error or through the negligence, carelessness, or error of its employee organization plan representative, an employee's participation in the premium conversion plan is disqualified and the employee is subject to taxes on the salary reduction amounts. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

§14-51-81 Acceptance of the employee organization salary reduction certification; employee organization responsibility. Unless otherwise mutually agreed to, the employee organization shall submit a list of all eligible employees who selected component plan(s) through the employee organization and certify that the employees have authorized the employer to make the appropriate salary reduction for the select component plan(s). Employee organization shall remain responsible for errors and omissions contained in the certified information provided to the plan administrator. [Eff. DEC 15 1989] (Auth: SLH 1989, Act 63) (Imp: SLH 1989, Act 63)

DEPARTMENT OF PERSONNEL SERVICES

Chapter 14-51, Hawaii Administrative Rules, on the Summary Page dated November 14, 1989, was originally adopted on September 19, 1989, following a public hearing held on September 5, 1989 and continued on September 7, 1989, and September 19, 1989, after public notice was given in the Hawaii Tribune-Herald, the Maui News, and the Garden Island News, on August 4, 1989, and the Honolulu Advertiser on August 5, 1989. Thereafter, changes were made to the rules to include employee organization health plans as a component plan under this Premium Conversion Plan. This matter was a subject of extensive discussion at the public hearings. The rules were adopted on November 17, 1989.

The adoption of chapter 14-51 shall become effective ten days after filing with the Office of the Lieutenant Governor.

Alfred C. Lardizabal, Director
Department of Personnel Services

APPROVED:

John Waihee
Governor
State of Hawaii

Dated: DEC 5 1989

APPROVED AS TO FORM:

Deputy Attorney General

Filed

REC'D. BY

1989 DEC 5 A 9 42

LT. GOVERNOR'S OFFICE