

H.B. NO. 1291

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended
2 by adding to part II a new section to be appropriately
3 designated and to read as follows:

4 "§88- Erroneous contributions from compensation of class
5 C members; contributions from overpaid compensation. Regular
6 interest shall be credited to a class C member on any deductions
7 erroneously made from the compensation of the member and paid
8 into the annuity savings fund. The interest shall continue
9 until the earlier of (1) refund of the deductions to the member,
10 or (2) return of the deductions to the member's employer. The
11 foregoing shall not require the payment of interest on
12 deductions made from any amounts which exceed the compensation
13 to which a member is entitled."

14 SECTION 2. Section 88-21, Hawaii Revised Statutes, is
15 amended by amending the definition of "child or "children" to
16 read as follows:

17 ""Child or children":

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- 1 (1) A natural child of a member;
- 2 (2) A legally adopted child of a member; or
- 3 (3) A [~~foster child or~~] stepchild of a member:
 - 4 (A) Who lives with a member in a regular parent-child
 - 5 relationship; and
 - 6 (B) For whom the member has become the child's legal
 - 7 guardian or has been awarded legal and physical
 - 8 custody of the child pursuant to a valid court
 - 9 order."

10 SECTION 3. Section 88-29, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§88-29 Officers, employees, legal adviser.** The board [~~of~~
13 ~~trustees~~] shall elect from its membership a chairperson, and by
14 a majority vote of all its members, shall appoint an
15 administrator and a chief investment officer who shall be exempt
16 from chapter 76 and serve under and at the pleasure of the
17 board. [~~Effective July 1, 1992, the~~] The [~~salary~~] salaries of
18 the administrator and chief investment officer shall be set by
19 the board; provided that the [~~salary~~] salaries shall be set at
20 not more than the salary of the governor as established under
21 [~~section~~] sections 26-51[~~-~~] and 26-56. The board shall engage
22 actuarial and other services as shall be required to transact

1 the business of the system. The compensation for all services
2 engaged by the board, and all other expenses of the board
3 necessary for the operation of the system, shall be paid at
4 rates and in amounts the board shall approve.

5 The attorney general or an appointed representative may
6 serve as legal adviser to the board [~~of trustees~~] or the board
7 [~~of trustees~~] may select its own legal counsel."

8 SECTION 4. Section 88-51, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§88-51 Membership service generally.** Membership service
11 includes:

- 12 (1) Service by an employee rendered since becoming a
13 member;
- 14 (2) Service rendered prior to becoming a member but (A)
15 subsequent to January 1, 1926, by an employee of the
16 State or (B) subsequent to January 1, 1928, by an
17 employee of any county;
- 18 (3) Service as an employee of the federal government where
19 the function carried on by the government has been
20 transferred to the State or any county, or where the
21 employee has been transferred to the federal

1 government and subsequently retransferred to the State
2 or any county;

3 (4) Service rendered by an employee in the office of the
4 delegate to Congress from Hawaii, or service rendered
5 by an employee in the office of a representative or a
6 senator to Congress from the State; provided that (A)
7 the employee was a member of the system immediately
8 preceding the time the employee renders [~~such~~] the
9 service; (B) the employee reenters the service of the
10 State or county within one year after termination of
11 [~~such~~] the service; and (C) the employee has, to the
12 satisfaction of the board [~~of trustees~~], waived the
13 employee's right to any credit under the Civil Service
14 Retirement Act (5 U.S.C.A. [~~2251~~] sections 8301 to
15 8351), as amended, or the Federal Employees Retirement
16 System Act (5 U.S.C.A. sections 8401 to 8479), as
17 amended, based upon [~~such~~] the service; provided
18 further that credit for [~~such~~] this service shall not
19 exceed eight years;

20 (5) Service as an employee of the Hawaii territorial
21 guard;

- 1 (6) Service while engaged in professional improvement
2 pursuant to an approved leave of absence for [~~such~~]
3 that purpose, with or without pay;
- 4 (7) Service between the years 1941 and 1947 with federal
5 defense agencies, where the employee was employed by
6 the government before the wartime service, went into
7 defense work at the direction of the employee's
8 employer, and returned to government service at the
9 end of the wartime service; provided that these
10 circumstances shall be verified by evidence
11 satisfactory to the board [~~of trustees~~];
- 12 (8) Service, not exceeding four years, in the military
13 service of the United States during the period 1941-
14 1949 rendered by an employee who was employed by the
15 Territory or county prior to the employee's induction
16 into the military and who subsequently returned to
17 employment of the Territory or county following the
18 employee's discharge;
- 19 (9) Service rendered prior to becoming a member as a full-
20 time employee at the Leahi Hospital or Pahala
21 Hospital, now known as Ka'u [~~General~~] Hospital,
22 Puunene Hospital, Waimea Hospital, Waimea, Kauai,

1 Haliimaile Dispensary, and Paia Hospital and Pioneer
2 Mill Hospital;

3 (10) Service rendered prior to becoming a member as a full-
4 time sheriff or deputy sheriff in the office of the
5 sheriff;

6 (11) The period of time when a member was absent from work
7 because of injuries incurred within the scope of the
8 member's employment and who has received workers'
9 compensation benefits prior to July 1, 1967;

10 (12) Service rendered as an employee of the legislature
11 during any legislative session;

12 (13) Service as a school cafeteria manager or worker if
13 paid by the State regardless of the source of funds
14 from which paid; provided that twelve months' service
15 shall be credited for the time [~~such a person~~] the
16 cafeteria manager or worker was working on a [~~nine-~~
17 ~~month~~] nine-, ten-, or eleven-month schedule during a
18 school year; and

19 (14) Service rendered as a trustee of the office of
20 Hawaiian affairs during the period July 1, 1993,
21 through June 30, 2002.

1 Membership service shall only be credited for any period
2 for which the member makes the [~~required~~] contributions to the
3 system[-] if required by parts II, VII, and VIII of this
4 chapter."

5 SECTION 5. Section 88-59.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any member who on July 1, 1991, was serving or
8 previously served as an assistant clerk or assistant sergeant at
9 arms of either house of the legislature and becomes eligible for
10 retirement benefits as a class A member as provided under
11 sections 88-73(a), [~~88-74(4),~~] 88-74(a)(3), and 88-76 shall be
12 entitled to full service credit as a class A member for any
13 eligible service prior to July 1, 1991; provided that:

14 (1) The member claims those years as membership service
15 credit and purchases that membership service credit in
16 accordance with section 88-59; and

17 (2) Notwithstanding any other law to the contrary:

18 (A) If the member was a class A member of the system
19 and elected to become a class C member pursuant
20 to section 88-271, the member repurchases all the
21 years of service as a class C member in
22 accordance with the procedures under section 88-

1 59 to regain standing as a contributory member;
2 and

3 (B) A class C member shall be credited for service as
4 an assistant clerk or assistant sergeant at arms
5 under section 88-59 in a lump sum nonrefundable
6 payment and receive retirement benefits as
7 provided in this section."

8 SECTION 6. Section 88-62, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) If a former member who has less than five years of
11 credited service and who has been out of service for a period of
12 four full calendar years or more after the year in which the
13 former member left service, or if a former member who withdrew
14 the former member's accumulated contributions returns to
15 service, the former member shall become a member in the same
16 manner and under the same conditions as anyone first entering
17 service; however, the former member may obtain membership
18 service credit in the manner provided by applicable law for
19 credited service that was forfeited by the member upon
20 termination of the member's previous membership. If the member
21 did not withdraw the former member's accumulated contributions
22 prior to the former member's return to service, the accumulated

1 contributions shall be returned to the member as part of the
2 process of enrolling the member in the system if the member's
3 accumulated contributions are \$1,000 or less at the time of
4 distribution. If the accumulated contributions for the service
5 the member had when the member previously terminated employment
6 are greater than \$1,000 and the member does not make written
7 application, prior to or contemporaneously with the member's
8 return to service, for return of the accumulated contributions,
9 the member may not withdraw the member's accumulated
10 contributions, except as provided by section 88-96 or 88-341,
11 until the member retires or attains age sixty-two. The member
12 shall not be entitled to service credit by reason of the
13 system's retention of the member's accumulated contributions for
14 the service the member had when the member previously terminated
15 employment.

16 To be eligible for any benefit, the member shall fulfill
17 the membership service requirements for the benefit through
18 membership service after again becoming a member, in addition to
19 meeting any other eligibility requirement established for the
20 benefit; provided that the membership service requirement shall
21 be exclusive of any former service acquired in accordance with

1 section 88-59 or any other section in [~~this~~] part[~~-~~] II, VII, or
2 VIII.

3 (b) If a former member with less than five years of
4 credited service who did not withdraw [~~his~~] the former member's
5 accumulated contributions returns to service within four full
6 calendar years after the year in which [~~he~~] the former member
7 left service, [~~he~~] the former member shall again become a member
8 in the same manner and under the same conditions as anyone first
9 entering service, except that [~~he~~] the member shall be credited
10 with service credit for the service [~~he~~] the member had when
11 [~~he~~] the member terminated employment and [~~his~~]:

12 (1) If the member returns to service as a class A or class
13 B member, the member's new and previous accumulated
14 contributions shall be combined[~~-~~]; or

15 (2) If the member returns to service after June 30, 2006,
16 as a class H member, section 88-321(b) shall apply."

17 SECTION 7. Section 88-74, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§88-74 Allowance on service retirement.** (a) Upon
20 retirement from service, a member shall receive a maximum
21 retirement allowance as follows:

1 (1) If the member has attained age fifty-five, a
2 retirement allowance of two per cent of the member's
3 average final compensation multiplied by the total
4 number of years of the member's credited service as a
5 class A and B member, excluding any credited service
6 as a judge, elective officer, or legislative officer,
7 plus a retirement allowance of one and one-fourth per
8 cent of the member's average final compensation
9 multiplied by the total number of years of prior
10 credited service as a class C member, plus a
11 retirement allowance of two per cent of the member's
12 average final compensation multiplied by the total
13 number of years of prior credited service as a class H
14 member; provided that:

15 (A) After June 30, 1968, if the member has at least
16 ten years of credited service of which the last
17 five or more years prior to retirement is
18 credited service as a firefighter, police
19 officer, or an investigator of the department of
20 the prosecuting attorney;

21 (B) After June 30, 1977, if the member has at least
22 ten years of credited service of which the last

- 1 five or more years prior to retirement is
2 credited service as a corrections officer;
- 3 (C) After June 16, 1981, if the member has at least
4 ten years of credited service of which the last
5 five or more years prior to retirement is
6 credited service as an investigator of the
7 department of the attorney general;
- 8 (D) After June 30, 1989, if the member has at least
9 ten years of credited service of which the last
10 five or more years prior to retirement is
11 credited service as a narcotics enforcement
12 investigator;
- 13 (E) After December 31, 1993, if the member has at
14 least ten years of credited service of which the
15 last five or more years prior to retirement is
16 credited service as a water safety officer;
- 17 (F) After June 30, 1994, if the member has at least
18 ten years of credited service, of which the last
19 five or more years prior to retirement are
20 credited service as a public safety
21 investigations staff investigator;
- 22 (G) After June 30, 2002, if the member:

1 (i) Has at least ten years of credited service
2 as a firefighter;

3 (ii) Is deemed permanently medically
4 disqualified due to a service related
5 disability to be a firefighter by the
6 employer's physician; and

7 (iii) Continues employment in a class A or B
8 position other than a firefighter; and

9 (H) After June 30, 2004, if the member:

10 (i) Has at least ten years of credited service
11 as a police officer;

12 (ii) Is deemed permanently medically
13 disqualified due to a service related
14 disability to be a police officer by the
15 employer's physician; and

16 (iii) Continues employment in a class A or B
17 position other than a police officer;

18 then for each year of service as a firefighter, police
19 officer, corrections officer, investigator of the
20 department of the prosecuting attorney, investigator
21 of the department of the attorney general, narcotics
22 enforcement investigator, water safety officer, or

1 public safety investigations staff investigator, the
2 retirement allowance shall be two and one-half per
3 cent of the member's average final compensation. The
4 maximum retirement allowance for those members shall
5 not exceed eighty per cent of the member's average
6 final compensation. If the member has not attained
7 age fifty-five, the member's retirement allowance
8 shall be computed as though the member had attained
9 age fifty-five, reduced [~~in accordance with factors of~~
10 ~~actuarial equivalence adopted by the board upon the~~
11 ~~advice of the actuary; provided that no reduction~~
12 ~~shall be made if the member has at least twenty-five~~
13 ~~years of credited service as a firefighter, police~~
14 ~~officer, corrections officer, investigator of the~~
15 ~~department of the prosecuting attorney, investigator~~
16 ~~of the department of the attorney general, narcotics~~
17 ~~enforcement investigator, public safety investigations~~
18 ~~staff investigator, sewer worker, or water safety~~
19 ~~officer, of which the last five or more years prior to~~
20 ~~retirement is credited service in such capacities,]~~
21 for age as provided in subsection (b);

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1 ~~[(2) If the member has made voluntary additional~~
2 ~~contributions for the purchase of an additional~~
3 ~~annuity and has not applied for a refund as permitted~~
4 ~~by section 88-72, the member may accept the refund at~~
5 ~~the time of retirement or, in lieu thereof, receive in~~
6 ~~addition to the retirement allowance provided in~~
7 ~~paragraph (1), an annuity that is the actuarial~~
8 ~~equivalent of the additional contributions with~~
9 ~~regular interest;~~

10 ~~(3)]~~ (2) If the member has credited service as a judge, the
11 member's retirement allowance shall be computed on the
12 following basis:

13 (A) For a member who has credited service as a judge
14 before July 1, 1999, irrespective of age, for
15 each year of credited service as a judge, three
16 and one-half per cent of the member's average
17 final compensation in addition to an annuity that
18 is the actuarial equivalent of the member's
19 accumulated contributions allocable to the period
20 of [~~such~~] service; and

21 (B) For a member who first earned credited service as
22 a judge after June 30, 1999, for each year of

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1 credited service as a judge, three and one-half
2 per cent of the member's average final
3 compensation in addition to an annuity that is
4 the actuarial equivalent of the member's
5 accumulated contributions allocable to the period
6 of [~~such~~] service. If the member has not
7 attained age fifty-five, the member's retirement
8 allowance shall be computed as though the member
9 had attained age fifty-five, reduced [~~in~~
10 ~~accordance with factors of actuarial equivalence~~
11 ~~adopted by the board upon the advice of the~~
12 ~~actuary;~~] for age as provided in subsection (b);
13 or
14 (C) For a judge with other credited service, as
15 provided in [~~paragraphs~~] paragraph (1) [and (2)].
16 If the member has not attained age fifty-five,
17 the member's retirement allowance shall be
18 computed as though the member had attained age
19 fifty-five, reduced [~~in accordance with factors~~
20 ~~of actuarial equivalence adopted by the board~~
21 ~~upon the advice of the actuary;~~] for age as
22 provided in subsection (b); or

1 (D) For a judge with credited service as an elective
2 officer or as a legislative officer, as provided
3 in paragraph [~~(4)~~] (3).

4 No allowance shall exceed seventy-five per cent of the
5 member's average final compensation. If the allowance
6 exceeds this limit, it shall be adjusted by reducing
7 the annuity included in subparagraphs (A) and (B) and
8 the portion of the accumulated contributions specified
9 in the subparagraphs in excess of the requirements of
10 the reduced annuity shall be returned to the member[-]
11 upon the member's retirement or termination of service
12 or paid to the member's designated beneficiary upon
13 the member's death while in service or while on
14 authorized leave without pay. The allowance for
15 judges under this paragraph, together with the
16 retirement allowance provided by the federal
17 government for similar service, shall in no case
18 exceed seventy-five per cent of the member's average
19 final compensation; or

20 [~~(4)~~] (3) If the member has credited service as an elective
21 officer or as a legislative officer, the member's
22 retirement allowance shall be derived by adding the

1 allowances computed separately under subparagraphs

2 (A), (B), (C), and (D) as follows:

3 (A) Irrespective of age, for each year of credited
4 service as an elective officer, three and one-
5 half per cent of the member's average final
6 compensation as computed under section 88-
7 81(e)(1), in addition to an annuity that is the
8 actuarial equivalent of the member's accumulated
9 contributions allocable to the period of service;
10 and

11 (B) Irrespective of age, for each year of credited
12 service as a legislative officer, three and one-
13 half per cent of the member's average final
14 compensation as computed under section 88-
15 81(e)(2), in addition to an annuity that is the
16 actuarial equivalent of the member's accumulated
17 contributions allocable to the period of service;

18 (C) If the member has credited service as a judge,
19 the member's retirement allowance shall be
20 computed on the following basis:

21 (i) For a member who has credited service as a
22 judge before July 1, 1999, irrespective of

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1 age, for each year of credited service as a
2 judge, three and one-half per cent of the
3 member's average final compensation as
4 computed under section 88-81(e)(3), in
5 addition to an annuity that is the actuarial
6 equivalent of the member's accumulated
7 contributions allocable to the period of
8 [~~such~~] service; and

9 (ii) For a member who first earned credited
10 service as a judge after June 30, 1999, and
11 has attained the age of fifty-five, for each
12 year of credited service as a judge, three
13 and one-half per cent of the member's
14 average final compensation as computed under
15 section 88-81(e)(3), in addition to an
16 annuity that is the actuarial equivalent of
17 the member's accumulated contributions
18 allocable to the period of [~~such~~] service.
19 If the member has not attained age fifty-
20 five, the member's retirement allowance
21 shall be computed as though the member had
22 attained age fifty-five, reduced [~~in~~

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1 ~~accordance with factors of actuarial~~
2 ~~equivalence adopted by the board upon the~~
3 ~~advice of the actuary,] for age as provided~~
4 in subsection (b); and

5 (D) For each year of credited service not included in
6 subparagraph (A), (B), or (C), the average final
7 compensation as computed under section 88-
8 81(e)(4) shall be multiplied by two per cent for
9 credited service earned as a class A or class H
10 member, two and one-half per cent for credited
11 service earned as a class B member, and one and
12 one-quarter per cent for credited service earned
13 as a class C member. If the member has not
14 attained age fifty-five, the member's retirement
15 allowance shall be computed as though the member
16 had attained age fifty-five, reduced [~~in~~
17 ~~accordance with factors of actuarial equivalence~~
18 ~~adopted by the board upon the advice of the~~
19 ~~actuary.] for age as provided in subsection (b).~~

20 The total retirement allowance shall not exceed
21 seventy-five per cent of the member's highest average
22 final compensation calculated under section 88-

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1 81(e)(1), (2), (3), or (4). If the allowance exceeds
2 this limit, it shall be adjusted by reducing any
3 annuity accrued under subparagraphs (A), (B), and (C)
4 and the portion of the accumulated contributions
5 specified in these subparagraphs in excess of the
6 requirements of the reduced annuity shall be returned
7 to the member[-] upon the member's retirement or
8 termination of service or paid to the member's
9 designated beneficiary upon the member's death while
10 in service or while on authorized leave without pay.

11 If a member has service credit as an elective officer
12 or as a legislative officer in addition to service
13 credit as a judge, then the retirement benefit
14 calculation contained in this paragraph shall
15 supersede the formula contained in paragraph [~~3~~].
16 (2).

17 (b) Except as provided in subsection (a), if a member has
18 not attained age fifty-five at the date of retirement, the
19 member's retirement allowance shall be reduced, for each month
20 the member's age at the date of retirement is below age fifty-
21 five, as follows:

1 (1) 0.4166 per cent for each month below age fifty-five
2 and above age forty-nine and eleven months; plus
3 (2) 0.3333 per cent for each month below age fifty and
4 above age forty-four and eleven months; plus
5 (3) 0.2500 per cent for each month below age forty-five
6 and above age thirty-nine and eleven months; plus
7 (4) 0.1666 per cent for each month below age forty;
8 provided that no reduction shall be made if the member has at
9 least twenty-five years of credited service as a firefighter,
10 police officer, corrections officer, investigator of the
11 department of the prosecuting attorney, investigator of the
12 department of the attorney general, narcotics enforcement
13 investigator, public safety investigations staff investigator,
14 sewer worker, or water safety officer, of which the last five or
15 more years prior to retirement is credited service in these
16 capacities."

17 SECTION 8. Section 88-74.6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§88-74.6[+] **Unreduced allowance on service retirement;**
20 **when applicable.** In addition to those positions identified in
21 section [~~88-74(1),~~] 88-74(b) and notwithstanding any law in this
22 part that requires a member to attain age fifty-five to qualify

1 for an unreduced service retirement allowance, if the member has
2 at least thirty years of credited service through June 30, 2003;
3 twenty-nine years of credited service on or after July 1, 2004;
4 twenty-eight years of credited service on or after July 1, 2005;
5 twenty-seven years of credited service on or after July 1, 2006;
6 twenty-six years of credited service on or after July 1, 2007;
7 and twenty-five years of credited service on or after July 1,
8 2008, as an emergency medical technician, of which the last five
9 or more years prior to retirement is credited service in that
10 capacity, then upon retirement and irrespective of age, that
11 member's service retirement allowance shall not be reduced for
12 actuarial purposes."

13 SECTION 9. Section 88-76, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§88-76 Allowance on ordinary disability retirement.** Upon
16 retirement for ordinary disability, a member shall receive a
17 maximum retirement allowance of one and three-fourths per cent
18 of the member's average final compensation for each year of
19 credited service; except that for each year of credited service
20 as a judge, an elective officer, or a legislative officer, the
21 member shall receive a maximum retirement allowance computed as
22 provided in section [~~88-74(3) or (4)~~], 88-74(a)(2) or (3), as

1 applicable. The minimum retirement allowance payable under this
2 section shall be thirty per cent of the member's average final
3 compensation."

4 SECTION 10. Section 88-79, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Upon application of a member, or the person appointed
7 by the family court as guardian of an incapacitated member, any
8 member who has been permanently incapacitated for duty as the
9 natural and proximate result of an accident occurring while in
10 the actual performance of duty at some definite time and place,
11 or as the cumulative result of some occupational hazard, through
12 no wilful negligence on the member's part, may be retired by the
13 board [~~of trustees~~] for service-connected disability; provided
14 that:

15 (1) In the case of an accident occurring after July 1,
16 1963, the employer shall file with the [~~board~~] system
17 a copy of the employer's report of the accident
18 submitted to the director of labor and industrial
19 relations;

20 (2) An application for retirement is filed with the
21 [~~board~~] system within two years of the date of the

1 accident, or the date upon which workers' compensation
2 benefits cease, whichever is later;

3 (3) Certification is made by the head of the agency in
4 which the member is employed, stating the time, place,
5 and conditions of the service performed by the member
6 resulting in the member's disability and that the
7 disability was not the result of wilful negligence on
8 the part of the member; and

9 (4) The medical board certifies that the member is
10 incapacitated for the further performance of duty at
11 the time of application and that the member's
12 incapacity is likely to be permanent."

13 SECTION 11. Section 88-81, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Average final compensation is the average annual
16 compensation pay or salary upon which a member has made
17 contributions as required by [~~sections 88-45 and 88-46.~~] parts
18 II, VII, and VIII of this chapter."

19 SECTION 12. Section 88-81.5, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Effective July 1, 1996, compensation used to
22 determine "average final compensation" under section 88-81 and

1 employee contributions picked up by the employer under section
2 88-46[7] or 88-326, shall be subject to the annual limit set
3 forth in section 401(a)(17) of the Internal Revenue Code of
4 1986, as amended."

5 SECTION 13. Section 88-83, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§88-83 Election of retirement allowance option.** (a)

8 Upon retirement, any member may elect to receive the maximum
9 retirement allowance to which the member is entitled computed in
10 accordance with section 88-74, 88-76, or 88-80, and in the event
11 of the [~~member's~~] retirant's death, there shall be paid to the
12 [~~member's~~] retirant's designated beneficiary, or otherwise to
13 the [~~member's~~] retirant's estate[7] the difference between: (1)
14 the balance of the member's accumulated contributions at the
15 time of the member's retirement and (2) the retirement allowance
16 and, if retirant retired after November 30, 2004, the post
17 retirement allowances paid or payable to the [~~member~~] retirant
18 prior to death.

19 In lieu of this maximum allowance, the member may elect to
20 receive the member's retirement allowance under any one of the
21 optional plans described below, which shall be actuarially
22 equivalent to the maximum allowance.

1 Option 1: The member may elect to receive a lesser
2 retirement allowance during the member's lifetime. At the
3 member's retirement, there shall be established an amount of
4 initial insurance that shall be computed on the basis of
5 actuarial factors adopted by the board. Upon the death of the
6 retirant, there shall be paid to the retirant's designated
7 beneficiary, otherwise to the retirant's estate: any balance
8 remaining in the initial insurance reserve, after deducting the
9 retirement allowance and, if the retirant retired after November
10 30, 2004, the post retirement allowances paid to the retirant
11 prior to death [~~shall be paid to the retirant's beneficiary,~~
12 ~~otherwise to the retirant's estate]~~. In lieu of the lump sum
13 balance, the beneficiary may, if the beneficiary is a natural
14 person, elect to receive an allowance for life based on the
15 value of the balance; provided that the allowance is not less
16 than \$100 per month. If the beneficiary of the retirant who (1)
17 retired after November 30, 2004, and (2) dies after June 30,
18 2007, elects to receive the allowance in lieu of the lump sum
19 balance, there shall also be payable to the beneficiary an
20 additional allowance calculated and payable in the same manner
21 as a post retirement allowance under section 88-90. The
22 additional allowance shall be based on the original amount of

1 the allowance in lieu of the lump sum balance, and shall
2 commence on the first day of July following the calendar year in
3 which payment of the allowance in lieu of the lump sum balance
4 is effective.

5 Option 2: The member may elect to receive a lesser
6 retirement allowance during the member's lifetime and have those
7 allowances, including cumulative post retirement allowances, if
8 applicable, continued after the member's death to the member's
9 beneficiary designated at the time of the member's retirement,
10 for the life of the beneficiary. If the beneficiary dies prior
11 to the retirant, all further payments shall cease upon the death
12 of the retirant; provided that for members retiring after
13 November 30, 2004, if the retirant's designated beneficiary dies
14 at any time after the retirant retired, but before the death of
15 the retirant, the retirant, upon the death of the retirant's
16 designated beneficiary, shall receive a retirement allowance,
17 including cumulative post retirement allowances, calculated as
18 if the retirant had selected the maximum retirement allowance to
19 which the [~~member~~] retirant is entitled. Only one beneficiary
20 shall be designated under this option. The beneficiary
21 designated under this option shall be a natural person, and

1 benefits under this option shall only be paid to a natural
2 person.

3 Option 3: The member may elect to receive a lesser
4 retirement allowance during the member's lifetime and have one-
5 half of the allowance, including fifty per cent of all
6 cumulative post retirement allowances, if applicable, continued
7 after the member's death to the member's beneficiary designated
8 at the time of the member's retirement, for the life of the
9 beneficiary. If the beneficiary dies prior to the retirant, all
10 further payments shall cease upon the death of the retirant;
11 provided that for members retiring after November 30, 2004, if
12 the retirant's designated beneficiary dies at any time after the
13 retirant retired, but before the death of the retirant, the
14 retirant, upon the death of the retirant's designated
15 beneficiary, shall receive a retirement allowance, including
16 cumulative post retirement allowances, calculated as if the
17 retirant had selected the maximum retirement allowance to which
18 the [~~member~~] retirant is entitled. Only one beneficiary shall
19 be designated under this option. The beneficiary designated
20 under this option shall be a natural person, and benefits under
21 this option shall only be paid to a natural person.

1 Option 4: The member may elect to receive a lesser
2 retirement allowance during the member's lifetime and provide
3 some other benefit to the member's beneficiary in accordance
4 with the member's own specification; provided that this election
5 shall be certified by the actuary to be the actuarial equivalent
6 of the member's retirement allowance and shall be approved by
7 the board.

8 Option 5: The member may elect to receive the balance of
9 the member's accumulated contributions at the time of retirement
10 in a lump sum and, during the member's lifetime, a retirement
11 allowance equal to the maximum retirement allowance reduced by
12 the actuarial equivalent of these contributions. Upon the death
13 of the retirant, all further payments shall cease. Only a
14 member retiring from service having at least ten years of
15 credited service or for disability may elect this retirement
16 allowance option.

17 To receive benefits, the beneficiary must have been
18 designated by the member in the form and manner prescribed by
19 the board.

20 (b) In the event of the death of a member after the date
21 of the filing of the member's written application to retire[7]
22 but prior to the retirement date designated by the member, and,

1 if the member was eligible to retire on the date of the member's
2 death, the member's designated beneficiary, or otherwise the
3 personal representative of the member's estate, may elect to
4 receive either the death [~~benefits~~] benefit under section 88-84
5 or the allowance under the option selected by the member that
6 would have been payable had the member retired. The effective
7 date of the member's retirement shall be the first day of a
8 month, except for the month of December when the effective date
9 of retirement may be on the first or last day of the month, and
10 shall be no earlier than the later of thirty days from the date
11 the member's retirement application was filed or the day
12 following the member's date of death. The election may not be
13 made if, at the time of the member's death, there are
14 individuals who are eligible to receive death benefits under
15 section 88-85 who have made a claim for the benefits; provided
16 that, if the designated beneficiary is an individual eligible to
17 receive benefits under section 88-85, the designated beneficiary
18 may receive benefits pursuant to an election made under this
19 section pending disposition of the claim for benefits under
20 section 88-85. If death benefits are payable under section
21 88-85, the death benefits shall be in lieu of any benefits
22 payable pursuant to this section.

1 (c) No election by a member under this section shall take
2 effect unless:

3 (1) The spouse or reciprocal beneficiary of the member is
4 furnished written notification that:

5 (A) Specifies the retirement date, the benefit option
6 selected, and the beneficiary designated by the
7 member;

8 (B) Provides information indicating the effect of the
9 election; and

10 (C) Is determined adequate by rules [~~established~~]
11 adopted by the board [~~pursuant to~~] in accordance
12 with chapter 91;

13 (2) The member selects option 2 or option 3 and designates
14 the spouse or reciprocal beneficiary as the
15 beneficiary; or

16 (3) It is established to the satisfaction of the board
17 that the notice required under paragraph (1) cannot be
18 provided because:

19 (A) There is no spouse or reciprocal beneficiary;

20 (B) The spouse or reciprocal beneficiary cannot be
21 located;

1 (C) The member has failed to notify the system that
2 the member has a spouse or reciprocal
3 beneficiary, or has failed to provide the system
4 with the name and address of the member's spouse
5 or reciprocal beneficiary; or

6 (D) Of other reasons, as established by ~~[rules of~~
7 ~~the]~~ board ~~[pursuant to]~~ rules adopted in
8 accordance with chapter 91. Any notice provided
9 to a spouse or reciprocal beneficiary, or
10 determination that the notification of a spouse
11 or reciprocal beneficiary cannot be provided~~[7]~~
12 shall be effective only with respect to that
13 spouse or reciprocal beneficiary. The system
14 will rely upon the representations made by a
15 member as to whether the member has a spouse or
16 reciprocal beneficiary and the name and address
17 of the member's spouse or reciprocal beneficiary.

18 (d) Each member, within a reasonable period of time before
19 the member's retirement date, shall be provided a written
20 explanation of:

21 (1) The terms and conditions of the various benefit
22 options;

1 (2) The rights of the member's spouse or reciprocal
2 beneficiary under subsection (c) to be notified of the
3 member's election of a benefit option; and

4 (3) The member's right to make, and the effect of, a
5 revocation of an election of a benefit option.

6 (e) The system shall not be liable for any false
7 statements made to the system by the member or by the member's
8 employer.

9 (f) In the event of the death of the retirant within one
10 year after the date of retirement, the retirant's designated
11 beneficiary may elect to receive either the death benefit under
12 the retirement allowance option selected by the retirant, or the
13 benefits [~~as~~] that would have been paid under section 88-84 had
14 the retirant died immediately prior to retirement, less any
15 payments [~~which the retirant~~] received[~~-~~] by the retirant;
16 provided that the designated beneficiary may not elect to
17 receive benefits under option 2 of this section if the retirant
18 would not have been permitted by applicable law or by the rules
19 of the system to name the designated beneficiary as beneficiary
20 under option 2.

21 (g) The increase in the retirant's benefit under options
22 2, 3, and, if applicable, 4 upon the death of the retirant's

1 designated beneficiary shall be effective the first day of the
2 month following the date of death of the designated beneficiary.
3 The retirant shall notify the system in writing and provide a
4 certified copy of the beneficiary's death certificate. The
5 system shall make retroactive benefit payments to the retirant,
6 not to exceed six months from the date the written notification
7 and the certified copy of the death certificate are received by
8 the system. The retroactive payments shall be without interest.

9 (h) Upon a member's retirement:

10 (1) The member's election of a retirement allowance option
11 shall be irrevocable; and

12 (2) The member's designation of a beneficiary shall be
13 irrevocable if the retirement allowance option elected
14 by the member is:

15 (A) Option 2 or 3;

16 (B) An option that includes option 2 or 3 in
17 combination with some other form of benefit
18 payment; or

19 (C) Any other option for which the actuarial
20 equivalent of the option to the maximum
21 retirement allowance is determined at the time of

1 the member's retirement in whole or in part on
2 the age of the member's designated beneficiary.

3 (i) A claim under this section by a retirant's or member's
4 beneficiary for benefits upon the death of a retirant or member
5 shall be filed no later than three years from the date of the
6 retirant's or member's death."

7 SECTION 14. Section 88-84, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Upon receipt by the system of proper proof of a
10 member's death occurring in service or while on authorized leave
11 without pay, there shall be paid to the member's designated
12 beneficiary an ordinary death benefit consisting of:

13 (1) The member's accumulated contributions and, if no
14 pension is payable under section 88-85, an amount
15 equal to fifty per cent of the compensation earned by
16 the member during the year immediately preceding the
17 member's death if the member had at least one year but
18 not more than ten full years of credited service,
19 which amount shall increase by five per cent for each
20 full year of service in excess of ten years, to a
21 maximum of one hundred per cent of the compensation;
22 provided that if the member had at least one year of

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1 credited service, the amount, together with the
2 member's accumulated contributions shall not be less
3 than one hundred per cent of the compensation;

4 (2) If the member had ten or more years of credited
5 service at the time of death in service, and the death
6 occurred after June 30, 1988, the member's designated
7 beneficiary may elect to receive in lieu of any other
8 payment provided in this section, the allowance that
9 would have been payable as if the member had retired
10 on the first day of a month following the member's
11 death, except for the month of December when
12 retirement on the first or last day of the month shall
13 be allowed. Benefits payable under this paragraph
14 shall be calculated under option 3 of section 88-83
15 and computed on the basis of section [~~88-76;~~] 88-74,
16 unreduced for age; or

17 (3) If the member was eligible for service retirement at
18 the time of death in service, the member's designated
19 beneficiary may elect to receive in lieu of any other
20 payment provided in this section, the allowance that
21 would have been payable as if the member had retired
22 on the first day of a month following the member's

1 death, except for the month of December when
2 retirement on the first or last day of the month shall
3 be allowed. Benefits payable under this paragraph
4 shall be calculated under option 2 of section 88-83[~~-~~]
5 and computed on the basis of section 88-74."

6 SECTION 15. Section 88-90.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~f~~]~~§88-90.5[~~f~~]~~ **Actuarial assumptions.** (a)

9 Notwithstanding any provision in chapter 88 to the contrary, the
10 board [~~of trustees~~] may approve the effect of the post retirement
11 allowance under section 88-90, or of any other mandatory fixed
12 scheduled increase in the benefits payable under part II, VII, or
13 VIII, as an actuarial assumption for the purpose of determining
14 the value of the options available under sections 88-83, 88-283,
15 and 88-333.

16 (b) Subject to the recommendation of the actuary appointed
17 under section 88-29, the board may adopt, by motion at any duly
18 noticed meeting of the board, actuarial tables, factors, and
19 assumptions for the purposes of parts II, VII, and VIII. The
20 tables, factors, and assumptions that are used to compute
21 benefits shall be in writing and certified by the
22 administrator."

1 SECTION 16. Section 88-93, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All written designations of beneficiaries for members
4 and for former employees with vested benefit status shall become
5 null and void when:

6 (1) The beneficiary predeceases the member or former
7 employee;

8 (2) The member or former employee is divorced from the
9 beneficiary;

10 (3) The member or former employee is unmarried, and
11 subsequently marries; or

12 (4) The member or former employee enters into or
13 terminates a reciprocal beneficiary relationship.

14 Any of the above events shall operate as a complete revocation
15 of the designation and, except as provided in sections 88-84(b)
16 and [~~88-333(b)~~] 88-338(b), all benefits payable by reason of the
17 death of the member or former employee shall be payable to the
18 member's or former employee's estate unless, after the death,
19 divorce, or marriage, or entry into or termination of reciprocal
20 beneficiary relationship, the member or former employee makes
21 other provision in a written designation duly executed and filed
22 with the board."

1 SECTION 17. Section 88-98, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§88-98 Return to service of a retirant.** (a) Any
4 retirant who returns to employment requiring active membership
5 in the system shall be reenrolled as an active member of the
6 system in the same class from which the retirant originally
7 retired and the retirant's retirement allowance shall be
8 suspended.

9 (1) If the retirant returns to service before July 1,
10 1998, and again retires, the retirant's retirement
11 allowance shall consist of:

12 (A) For members with fewer than three years of
13 credited service during the member's period of
14 reemployment, the allowance to which the member
15 was entitled under the retirement allowance
16 option selected when the member previously
17 retired and which was suspended; plus, for the
18 period of service during the member's
19 reemployment, the allowance to which the member
20 is entitled for that service based on the
21 retirement allowance option initially selected
22 and computed for the member's age, average final

1 compensation, and other factors in accordance
2 with the benefit formula under section 88-74 in
3 existence at the time of the member's latest
4 retirement; or

5 (B) For members with three or more years of credited
6 service during the member's period of
7 reemployment, the allowance computed as if the
8 member were retiring for the first time; provided
9 that in no event shall the allowance be less than
10 the amount determined in accordance with
11 subparagraph (A); and

12 (2) If the retirant returns to service after June 30,
13 1998, and again retires, the retirant's retirement
14 allowance shall be computed in accordance with
15 paragraph (1)(A), regardless of the number of years of
16 service in the reemployment period.

17 (b) Any retirant who received the special retirement
18 incentive benefit under Act 253, Session Laws of Hawaii 2000,
19 and is reemployed by the State or a county in any capacity
20 shall:

21 (1) Have the retirant's retirement allowance suspended;

1 (2) Forfeit the special retirement incentive benefit and
2 any related benefit provided by chapter 88; and

3 (3) Be subject to the age and service requirements under
4 section 88-73 when the member again retires.

5 (c) If a retirant's designation of beneficiary was
6 irrevocable upon the retirant's initial retirement, the retirant
7 may not change the retirant's designated beneficiary when the
8 retirant returns to service or when the former retirant again
9 retires.

10 (d) A retirant who returns to service shall not be
11 considered to be "in service", for the purposes of section
12 88-75, 88-79, 88-84, or 88-85, or any other provision of this
13 chapter providing for benefits arising out of the disability or
14 death of a member. A retirant who returns to service and dies
15 during the period of reemployment shall be considered to have
16 retired again effective as of the first day of the month
17 following the month in which the death occurs, except for death
18 during the month of December when the effective date of
19 retirement may be the last day of the month.

20 [~~(d)~~] (e) The board shall adopt any rules as may be
21 required to administer the purposes of this section."

1 SECTION 18. Section 88-251, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§88-251 Applicability.** The following provisions of part
4 II shall apply to this part:

- 5 (1) Subpart A, except the definitions provided in section
6 88-21, unless expressly adopted in section 88-261;
- 7 (2) Subpart B, except sections 88-45, 88-45.5, 88-46, 88-
8 48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;
- 9 (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74,
10 88-74.6, 88-75, 88-76, [~~88-79,~~] 88-80, 88-83, 88-84,
11 88-85, 88-87, 88-88, [~~88-89,~~] 88-96, 88-97, and 88-98;
- 12 (4) Subpart D, except sections 88-112 and 88-113; and
- 13 (5) Subpart E."

14 SECTION 19. Section 88-273, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§88-273 Break in service; reemployment.** (a) Any class C
17 member who terminates service prior to accumulating ten years of
18 credited service, excluding unused sick leave, shall cease to be
19 a member and shall forfeit all credited service; provided that:

- 20 (1) If the former class C member becomes a member again
21 within one calendar year from the date of termination,
22 all service credit for previous service shall be

1 restored. If the former class C member becomes a
2 member again more than one calendar year after the
3 date of termination, one month of service credit for
4 previous service shall be restored for each month of
5 service rendered following the return to membership.

6 (2) If the former class C member becomes a class A, class
7 B, or class H member within one calendar year from the
8 date of termination, all class C service credit for
9 previous service shall be restored. If the former
10 class C member becomes a class A, class B, or class H
11 member more than one calendar year after the date of
12 termination, one month of class C service credit for
13 previous service shall be restored for each month of
14 service rendered following the return to membership.

15 Subject to the provisions of sections 88-322 and 88-324, the
16 service credit restored pursuant to this subsection shall be
17 class C service credit.

18 (b) Any class C member who terminates service with a
19 vested right and who subsequently becomes a class A, class B,
20 class C, or class H member shall retain all service credit for
21 previous service and shall be credited with additional service
22 credit for service rendered following the return to membership.

1 (c) Any retirant who retired under the provisions of part
2 VII of this chapter and returns to service requiring active
3 membership in the system as a class C member shall be reenrolled
4 as an active member, and the retirant's retirement allowance
5 shall be suspended. When the member again retires, the
6 retirement allowance shall be the allowance to which the member
7 was entitled under the retirement allowance option selected when
8 the member previously retired and which was suspended; plus, for
9 the period of service during the member's reemployment, the
10 allowance to which the member is entitled for that service based
11 on the retirement allowance option initially selected and
12 computed for the member's age, average final compensation, and
13 other factors in accordance with the benefit formula of a class
14 C member under section 88-282 in existence at the time of the
15 member's final retirement. [~~If the member's designation of
16 beneficiary was irrevocable upon the member's initial retirement,
17 the member may not change the member's designated beneficiary
18 when the member returns to service or when the member again
19 retires.]~~

20 (d) Any retirant who retired under the provisions of part
21 VII of this chapter and returns to service requiring active
22 membership in the system as a class A or class B member shall be

1 reenrolled as an active member, and the retirant's retirement
2 allowance shall be suspended. When the member again retires,
3 the retirement allowance shall be the allowance to which the
4 member was entitled under the retirement allowance option
5 selected when the member previously retired and which was
6 suspended; plus, for the period of service during the member's
7 reemployment, the allowance to which the member is entitled for
8 that service based on the retirement allowance option initially
9 selected and computed for the member's age, average final
10 compensation, and other factors in accordance with the benefit
11 formula of a class A or class B member under section 88-74 in
12 existence at the time of the member's final retirement. [~~If the~~
13 ~~member's designation of beneficiary was irrevocable upon the~~
14 ~~member's initial retirement, the member may not change the member~~
15 ~~designated beneficiary when the member returns to service or when~~
16 ~~the member again retires.]~~

17 (e) Any retirant who received the special retirement
18 incentive benefit under Act 253, Session Laws of Hawaii 2000,
19 and is reemployed by the State or a county in any capacity
20 shall:

21 (1) Have the retirant's retirement allowance suspended;

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1 (2) Forfeit the special retirement incentive benefit and
2 any other related benefit provided by chapter 88; and

3 (3) Be subject to the age and service requirements under
4 section 88-281 when the member again retires.

5 (f) If a retirant's designation of beneficiary was
6 irrevocable upon the retirant's initial retirement, the retirant
7 may not change the retirant's designated beneficiary when the
8 retirant returns to service or when the former retirant again
9 retires.

10 (g) A retirant who returns to service shall not be
11 considered to be "in service", for the purposes of section
12 88-284, 88-285, or 88-286, or any other provision of this
13 chapter providing for benefits arising out of the disability or
14 death of a member. A retirant who returns to service and dies
15 during the period of reemployment shall be considered to have
16 retired again effective as of the first day of the month
17 following the month in which the death occurs, except for death
18 during the month of December when the effective date of
19 retirement may be the last day of the month.

20 (h) The board shall adopt any rules as may be required to
21 administer the purposes of this section."

1 SECTION 20. Section 88-283, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§88-283 Election of retirement allowance option. (a)**

4 Upon retirement, any member may elect to receive the maximum
5 retirement allowance to which the member is entitled, computed
6 in accordance with section 88-282, 88-284, or 88-285, and, if
7 the member elects to receive the maximum retirement allowance,
8 the member's beneficiary shall not be entitled to any benefit
9 upon the member's death, except as provided in subsection (g).
10 In lieu of the maximum retirement allowance, a member may elect
11 to receive the member's retirement allowance under one of the
12 options described below, which shall be actuarially equivalent
13 to the maximum retirement allowance:

14 (1) Option A: A reduced allowance payable to the member,
15 then upon the member's death, one-half of the
16 allowance, including fifty per cent of all cumulative
17 post retirement allowances, to the member's
18 beneficiary designated by the member at the time of
19 retirement, for the life of the beneficiary[+]. If
20 the beneficiary dies prior to the retirant, all
21 further payments shall cease upon the death of the
22 retirant; provided that for members retiring after

1 November 30, 2004, if the retirant's designated
2 beneficiary dies at any time after the retirant
3 retired, but before the death of the retirant, the
4 retirant, upon the death of the retirant's designated
5 beneficiary, shall receive a retirement allowance,
6 including cumulative post retirement allowances,
7 calculated as if the retirant had selected the maximum
8 retirement allowance to which the retirant is
9 entitled;

- 10 (2) Option B: A reduced allowance payable to the member,
11 then upon the member's death, the same allowance,
12 including cumulative post retirement allowances, paid
13 to the member's beneficiary designated by the member
14 at the time of retirement, for the life of the
15 beneficiary[→]. If the beneficiary dies prior to the
16 retirant, all further payments shall cease upon the
17 death of the retirant; provided that for members
18 retiring after November 30, 2004, if the retirant's
19 designated beneficiary dies at any time after the
20 retirant retired, but before the death of the
21 retirant, the retirant, upon the death of the
22 retirant's designated beneficiary, shall receive a

1 retirement allowance, including cumulative post
2 retirement allowances, calculated as if the retirant
3 had selected the maximum retirement allowance to which
4 the retirant is entitled; or

5 (3) Option C: A reduced allowance payable to the member,
6 and [~~if the member dies~~] upon the death of the
7 retirant within ten years of retirement, the same
8 allowance, including cumulative post retirement
9 allowances, paid to the [~~member's~~] retirant's
10 designated beneficiary, or otherwise to the retirant's
11 estate for the balance of the ten-year period. If the
12 retirant returns to service requiring active
13 membership in the system and the retirant is
14 reenrolled as an active member, running of the ten-
15 year period will be suspended until the member again
16 retires.

17 Only one beneficiary shall be designated under options A, [~~and~~]
18 B[~~-~~], and C. The beneficiary designated under option A or B
19 shall be a natural person, and benefits under option A or B
20 shall only be paid to a natural person. To receive benefits,
21 the beneficiary shall have been designated by the member in the
22 form and manner prescribed by the board.

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1 (b) Upon a member's retirement:

2 (1) The member's election of a retirement allowance option
3 shall be irrevocable; and

4 (2) The member's designation of a beneficiary shall be
5 irrevocable if the retirement allowance option elected
6 by the member is option A or B.

7 (c) No election by a member under this section shall take
8 effect unless:

9 (1) The spouse or reciprocal beneficiary of the member is
10 furnished written notification that:

11 (A) Specifies the retirement date, the benefit option
12 selected, and the beneficiary designated by the
13 member;

14 (B) Provides information indicating the effect of the
15 election; and

16 (C) Is determined adequate by rules [~~established~~]
17 adopted by the board [~~pursuant to~~] in accordance
18 with chapter 91; [~~or~~]

19 (2) The member selects option A or option B and designates
20 the spouse or reciprocal beneficiary as the
21 beneficiary; or

- 1 (3) It is established to the satisfaction of the board
2 that the notice required under paragraph (1) cannot be
3 provided because:
- 4 (A) There is no spouse or reciprocal beneficiary;
- 5 (B) The spouse or reciprocal beneficiary cannot be
6 located;
- 7 (C) The member has failed to notify the system that
8 the member has a spouse or reciprocal
9 beneficiary, or has failed to provide the system
10 with the name and address of the member's spouse
11 or reciprocal beneficiary; or
- 12 (D) Of other reasons, as established by ~~[rules of~~
13 ~~the]~~ board ~~[pursuant to]~~ rules adopted in
14 accordance with chapter 91. Any notice provided
15 to a spouse or reciprocal beneficiary, or
16 determination that the notification of a spouse
17 or reciprocal beneficiary cannot be provided,
18 shall be effective only with respect to that
19 spouse or reciprocal beneficiary. The system
20 shall rely upon the representations made by a
21 member as to whether the member has a spouse or

1 reciprocal beneficiary and the name and address
2 of the member's spouse or reciprocal beneficiary.

3 (d) Each member, within a reasonable period of time before
4 the member's retirement date, shall be provided a written
5 explanation of:

6 (1) The terms and conditions of the various benefit
7 options;

8 (2) The rights of the member's spouse or reciprocal
9 beneficiary under subsection (c) to be notified of the
10 member's election of a benefit option; and

11 (3) The member's right to make, and the effect of, a
12 revocation of an election of a benefit option.

13 (e) The system shall not be liable for any false
14 statements made to the system by the member or by the member's
15 employer.

16 (f) If a member dies after the date of the filing of the
17 member's written application to retire, but prior to the
18 retirement date designated by the member, and, if the member was
19 eligible to retire on the date of the member's death, the
20 member's designated beneficiary may elect to receive either:

1 (1) An allowance that would have been payable if the
2 member had retired and had elected to receive a
3 retirement allowance under option B; or

4 (2) The allowance under the option selected by the member
5 which would have been payable had the member retired.

6 The effective date of the member's retirement shall be the first
7 day of a month, except for the month of December when the
8 effective date of retirement may be on the first or last day of
9 the month, and shall be no earlier than the later of thirty days
10 from the date the member's retirement application was filed or
11 the day following the member's date of death. The election may
12 not be made if, at the time of the member's death, there are
13 individuals who are eligible to receive death benefits under
14 section 88-286(c) who have made a claim for the benefits;
15 provided that, if the designated beneficiary is an individual
16 eligible to receive benefits under section 88-286(c), the
17 designated beneficiary may receive benefits pursuant to an
18 election made under this section pending disposition of the
19 claim for benefits under section 88-286(c). [~~No death benefits~~
20 ~~will be payable under section 88-286(c) while benefits are paid~~
21 ~~pursuant to an election made under this section.~~] If death
22 benefits are payable under section 88-286(c), the death benefits

1 shall be in lieu of any benefits payable pursuant to this
2 section.

3 (g) If the retirant dies within one year after the date of
4 retirement, the retirant's designated beneficiary may elect to
5 receive either:

6 (1) The death benefit under the retirement allowance
7 option selected by the retirant; or

8 (2) The death benefit under option B[; ~~provided that the~~
9 ~~difference between the benefit that the retirant~~
10 ~~received and the benefit that would have been payable~~
11 ~~to the retirant had the retirant elected to receive a~~
12 ~~retirement allowance under option B shall be returned~~
13 ~~to the system.], less the difference between the
14 benefit that the retirant received and the benefit
15 that would have been payable to the retirant had the
16 retirant elected to receive a retirement allowance
17 under option B; provided that if the retirant would
18 not have been permitted by applicable law or the rules
19 of the system to name the designated beneficiary as
20 beneficiary under option B, the designated beneficiary
21 may elect to receive the death benefit under option A,
22 less the difference between the benefit that the~~

1 retirant received and the benefit that would have been
2 payable to the retirant had the retirant elected to
3 receive a retirement allowance under option A.

4 (h) The increase in the retirant's benefit under options A
5 and B upon the death of the retirant's designated beneficiary
6 shall be effective the first day of the month following the date
7 of death of the designated beneficiary. The retirant shall
8 notify the system in writing and provide a certified copy of the
9 beneficiary's death certificate. The system shall make
10 retroactive benefit payments to the retirant, not to exceed six
11 months from the date the written notification and the certified
12 copy of the death certificate are received by the system. The
13 retroactive payments shall be without interest.

14 (i) A claim under this section by a retirant's or member's
15 beneficiary for benefits upon the death of a retirant or member
16 shall be filed no later than three years from the date of the
17 retirant's or member's death."

18 SECTION 21. Section 88-301, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§88-301 Applicability.** The following provisions of part
21 II of this chapter shall apply to this part:

22 (1) Subpart A;

- 1 (2) Subpart B, except sections 88-45, 88-46, 88-48, 88-52,
2 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;
- 3 (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74,
4 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83, 88-84, 88-
5 85, 88-88, [~~88-89,~~] 88-96, 88-97, and 88-98;
- 6 (4) Subpart D; and
- 7 (5) Subpart E."

8 SECTION 22. Section 88-322, Hawaii Revised Statutes, is
9 amended as follows:

10 (1) By amending subsection (b) to read as follows:

11 "(b) All class A and class B credited service of class A
12 or class B members who make the election to become class H
13 members pursuant to section 88-321(a) shall be converted to
14 class H credited service. The cost of the conversion of class A
15 or class B credited service shall be the member's accumulated
16 contributions as of the date of conversion. Verified membership
17 service credit paid for pursuant to section 88-59 under an
18 irrevocable payroll authorization entered into prior to July 1,
19 2006, shall be credited as class H credited service. Class A
20 and class B members who are in service on June 30, 2006, and
21 make the election to become class H members pursuant to section
22 88-321(a) shall have the option to convert some or all of their

1 class C credited service, as of June 30, 2006, to class H
2 credited service by paying, in the manner provided in subsection
3 (d), the full actuarial cost of the conversion as of [~~June 30,~~
4 ~~2006.~~] the last day of the sixth calendar month preceding the
5 date of the notice described in subsection (e). The option to
6 convert class C credited service to class H credited service
7 shall also apply:

- 8 (1) To forfeited credit for previous service that a member
9 is eligible to have restored as of June 30, 2006; and
10 (2) To membership service credit that a member is eligible
11 to claim under section 88-272(4) to (6) as of June 30,
12 2006;

13 provided that the member shall claim the forfeited service
14 credit and the membership service credit by the date established
15 by the board at a meeting held pursuant to chapter 92."

16 (2) By amending subsection (f) to read as follows:

17 "(f) The actuarial cost of converting a member's class C
18 credited service to class H credited service under subsections
19 (a) and (b) shall be based on the member's actual age in full
20 years as of [~~June 30, 2006,~~] the last day of the sixth calendar
21 month preceding the date of the notice described in subsection
22 (e), and on the member's monthly base salary or monthly basic

1 rate of pay as of [~~June 30, 2006,~~] the last day of the sixth
2 calendar month preceding the date of the notice described in
3 subsection (e), exclusive of overtime, differentials,
4 supplementary payments, bonuses, and salary supplements, but
5 including elective salary reduction contributions under sections
6 125, 403(b), and 457(b) of the Internal Revenue Code of 1986, as
7 amended."

8 SECTION 23. Section 88-333, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§88-333 Election of retirement allowance option. (a)**

11 Upon retirement:

12 (1) Any class H member may elect to receive the maximum
13 retirement allowance to which the member is entitled,
14 computed in accordance with the provisions described
15 under section 88-332, 88-335, or 88-337, and if the
16 member elects to receive the maximum retirement
17 allowance, in the event of the [~~member's~~] retirant's
18 death, there shall be paid to the [~~member's~~]
19 retirant's designated beneficiary, or otherwise to the
20 [~~member's~~] the retirant's estate, the difference
21 between: (1) the balance of the member's accumulated
22 contributions at the time of the member's retirement

1 and (2) the retirement allowance and the post
2 retirement allowances paid or payable to the [~~member~~]
3 retirant prior to death; or

4 (2) In lieu of the maximum allowance to which the member
5 is entitled, computed in accordance with the
6 provisions described under section 88-332, 88-335, or
7 88-337, the member may elect to receive the member's
8 retirement allowance under any one of the options
9 described in section 88-83, which shall be actuarially
10 equivalent to the maximum allowance.

11 To receive benefits, the beneficiary shall have been
12 designated by the member in the form and manner prescribed by
13 the board.

14 (b) If a class H member dies after the date of the filing
15 of the member's written application to retire but prior to the
16 retirement date designated by the member, and, if the member was
17 eligible to retire on the date of the member's death, the
18 member's designated beneficiary, or otherwise the personal
19 representative of the member's estate, may elect to receive
20 either the death benefit under section 88-338 or the allowance
21 under the option selected by the member that would have been
22 payable had the member retired. The effective date of the

1 member's retirement shall be the first day of a month, except
2 for the month of December when the effective date of retirement
3 may be on the first or last day of the month, and shall be no
4 earlier than the later of thirty days from the date the member's
5 retirement application was filed or the day following the
6 member's date of death. The election may not be made if, at the
7 time of the member's death, there are individuals who are
8 eligible to receive death benefits under section 88-339 who have
9 made a claim for the benefits; provided that, if the designated
10 beneficiary is an individual eligible to receive benefits under
11 section 88-339, the designated beneficiary may receive benefits
12 pursuant to an election made under this section pending
13 disposition of the claim for benefits under section 88-339. If
14 death benefits are payable under section 88-339, the death
15 benefits shall be in lieu of any benefits payable pursuant to
16 this section.

17 (c) If a retirant dies within one year after the date of
18 retirement, the retirant's designated beneficiary may elect to
19 receive either the death benefit under the retirement allowance
20 option selected by the [~~member,~~] retirant or the benefits that
21 would have been paid under section 88-338 had the retirant died
22 immediately prior to retirement, less any payments received by

1 the retirant[-]; provided that the designated beneficiary may
2 not elect to receive benefits under option 2 of section 88-83 if
3 the retirant would not have been permitted by applicable law or
4 by the rules of the system to name the designated beneficiary as
5 beneficiary under option 2.

6 (d) Upon a member's retirement:

7 (1) The member's election of a retirement allowance option
8 shall be irrevocable; and

9 (2) The member's designation of a beneficiary shall be
10 irrevocable if the retirement allowance option elected
11 by the member is:

12 (A) Option 2 or 3 described in section 88-83;

13 (B) An option that includes option 2 or 3 in
14 combination with some other form of benefit
15 payment; or

16 (C) Any other option for which the actuarial
17 equivalent of the option to the maximum
18 retirement allowance is determined at the time of
19 the member's retirement in whole or in part on
20 the age of the member's designated beneficiary.

21 (e) No election by a member under this section shall take
22 effect unless:

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- 1 (1) The spouse or reciprocal beneficiary of the member is
2 furnished written notification that:
- 3 (A) Specifies the retirement date, the benefit option
4 selected, and the beneficiary designated by the
5 member;
- 6 (B) Provides information indicating the effect of the
7 election; and
- 8 (C) Is determined adequate by rules adopted by the
9 board in accordance with chapter 91;
- 10 (2) The member selects option 2 or option 3 under section
11 88-83 and designates the spouse or reciprocal
12 beneficiary as the beneficiary; or
- 13 (3) It is established to the satisfaction of the board
14 that the notice required under paragraph (1) cannot be
15 provided because:
- 16 (A) There is no spouse or reciprocal beneficiary;
- 17 (B) The spouse or reciprocal beneficiary cannot be
18 located;
- 19 (C) The member has failed to notify the system that
20 the member has a spouse or reciprocal
21 beneficiary, or has failed to provide the system

1 with the name and address of the member's spouse
2 or reciprocal beneficiary; or
3 (D) Of other reasons, as established by board rules
4 adopted in accordance with chapter 91.

5 Any notice provided to a spouse or reciprocal beneficiary,
6 or determination that the notification of a spouse or reciprocal
7 beneficiary cannot be provided shall be effective only with
8 respect to that spouse or reciprocal beneficiary. The system
9 shall rely upon the representations made by a member as to
10 whether the member has a spouse or reciprocal beneficiary and
11 the name and address of the member's spouse or reciprocal
12 beneficiary. [~~The system shall not be liable for any false~~
13 ~~statements made by the member.~~]

14 (f) Each member, within a reasonable period of time before
15 the member's retirement date, shall be provided a written
16 explanation of:

17 (1) The terms and conditions of the various benefit
18 options;

19 (2) The rights of the member's spouse or reciprocal
20 beneficiary under subsection (e) to be notified of the
21 member's election of a benefit option; and

1 (3) The member's right to make, and the effect of, a
2 revocation of an election of a benefit option.

3 (g) The system shall not be liable for any false
4 statements made to the system by the member or by the member's
5 employer.

6 (h) The increase in the retirant's benefit under options
7 2, 3, and, if applicable, 4, described in section 88-83, upon
8 the death of the retirant's designated beneficiary shall be
9 effective the first day of the month following the date of death
10 of the designated beneficiary. The retirant shall notify the
11 system in writing and provide a certified copy of the
12 beneficiary's death certificate. The system shall make
13 retroactive benefit payments to the retirant, not to exceed six
14 months from the date the written notification and the certified
15 copy of the death certificate are received by the system. The
16 retroactive payments shall be without interest.

17 (i) A claim under this section by a retirant's or member's
18 beneficiary for benefits upon the death of a retirant or member
19 shall be filed no later than three years from the date of the
20 retirant's or member's death."

21 SECTION 24. Section 88-334, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:

1 "(b) Upon approval by the board, the member shall receive
2 an ordinary disability retirement benefit no earlier than thirty
3 days from the date the application was filed or the date the
4 member terminated service, whichever is later. [~~Retirement~~] A
5 member whose application for an ordinary disability retirement
6 allowance is approved by the board while the member is still in
7 service may terminate service and retire at any time following
8 the approval; provided that retirement shall become effective on
9 the first day of [a] the month[7] following the month the
10 applicant terminates employment or goes off the payroll, except
11 for the month of December when retirement on the first or last
12 day of the month shall be allowed."

13 SECTION 25. Section 88-336, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Upon application of a class H member, or the person
16 appointed by the family court as guardian of an incapacitated
17 member, any class H member who has been permanently
18 incapacitated for duty as the natural and proximate result of an
19 accident occurring while in the actual performance of duty at
20 some definite time and place, or as the cumulative result of
21 some occupational hazard, through no wilful negligence on the

1 member's part, may be retired by the board for service-connected
2 disability; provided that:

3 (1) In the case of an accident occurring after July 1,
4 1963, the employer shall file with the system a copy
5 of the employer's report of the accident submitted to
6 the director of labor and industrial relations;

7 (2) An application for retirement is filed with the system
8 within two years of the date of the accident, or the
9 date upon which workers' compensation benefits cease,
10 whichever is later;

11 (3) Certification is made by the head of the agency in
12 which the member is employed, stating the time, place,
13 and conditions of the service performed by the member
14 resulting in the member's disability and that the
15 disability was not the result of wilful negligence on
16 the part of the member; and

17 (4) The medical board certifies that the member is
18 incapacitated for the further performance of duty at
19 the time of application and that the member's
20 incapacity is likely to be permanent."

21 SECTION 26. Section 88-338, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:

1 "(a) Upon receipt by the system of proper proof of a class
2 H member's death occurring in service or while on authorized
3 leave without pay and if no pension is payable under section
4 88-339, there shall be paid to the member's designated
5 beneficiary an ordinary death benefit as follows:

6 (1) If the member had less than five years of credited
7 service at the time of death, the member's accumulated
8 contributions shall be paid to the member's designated
9 beneficiary;

10 (2) If the member had five or more years of credited
11 service at the time of death, an amount equal to the
12 member's hypothetical account balance shall be paid to
13 the member's designated beneficiary;

14 (3) If the member had ten or more years of credited
15 service at the time of death, the member's designated
16 beneficiary may elect to receive in lieu of any other
17 payment provided in this section, the allowance that
18 would have been payable as if the member had retired
19 on the first day of a month following the member's
20 death, except for the month of December when
21 retirement on the first or last day of the month shall
22 be allowed. Benefits payable under this paragraph

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1 shall be calculated under option 3 of section 88-83
2 and computed on the basis of section [~~88-335;~~] 88-332,
3 unreduced for age; or

4 (4) If the member was eligible for service retirement at
5 the time of death, the member's designated beneficiary
6 may elect to receive in lieu of any other payment
7 provided in this section, the allowance that would
8 have been payable as if the member had retired on the
9 first day of a month following the member's death,
10 except for the month of December when retirement on
11 the first or last day of the month shall be allowed.
12 Benefits payable under this paragraph shall be
13 calculated under option 2 of section 88-83[~~-~~] and
14 computed on the basis of section 88-332."

15 SECTION 27. Section 88-342, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) When a former class H member who does not have vested
18 benefit status returns to service, the former member shall become
19 a member in the same manner and under the same conditions as
20 anyone first entering service and, except as provided in
21 subsection (b), to be eligible for any benefit, the member shall
22 fulfill the membership service requirements for the benefit

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1 through membership service after again becoming a member in
2 addition to meeting any other eligibility requirement established
3 for the benefit; provided that the membership service requirement
4 shall be exclusive of any former service acquired in accordance
5 with section 88-324 or any other section in [~~this~~] part[-] II,
6 VII, or VIII."

7 SECTION 28. Section 88-344, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§88-344 Return to service of a retirant.** (a) Any
10 retirant who retired under the provisions of part VIII of this
11 chapter and returns to service requiring active membership in
12 the system as a class H member shall be reenrolled as an active
13 member, and the retirant's retirement allowance shall be
14 suspended. When the member again retires, the retirement
15 allowance shall be the sum of:

16 (1) The allowance to which the member was entitled under
17 the retirement allowance option selected when the
18 member previously retired and which was suspended; and

19 (2) For the period of service during the member's
20 reemployment, the allowance to which the member is
21 entitled for that service based on the retirement
22 allowance option initially selected and computed for

1 the member's age, average final compensation, and
2 other factors in accordance with the benefit formula
3 of a class H member under section 88-332 in existence
4 at the time of the member's final retirement.

5 (b) Any retirant who retired under the provisions of part
6 VIII of this chapter and returns to service requiring active
7 membership in the system as a class A or class B member shall be
8 reenrolled as an active member, and the retirant's retirement
9 allowance shall be suspended. When the member again retires,
10 the retirement allowance shall be the sum of:

- 11 (1) The allowance to which the member was entitled under
12 the retirement allowance option selected when the
13 member previously retired and which was suspended; and
- 14 (2) For the period of service during the member's
15 reemployment, the allowance to which the member is
16 entitled for that service based on the retirement
17 allowance option initially selected and computed for
18 the member's age, average final compensation, and
19 other factors in accordance with the benefit formula
20 of a class A or class B member under section 88-74 in
21 existence at the time of the member's final
22 retirement.

1 (c) Any retirant who received the special retirement
2 incentive benefit under Act 253, Session Laws of Hawaii 2000,
3 and is reemployed by the State or a county in any capacity
4 shall:

- 5 (1) Have the retirant's retirement allowance suspended;
- 6 (2) Forfeit the special retirement incentive benefit and
7 any related benefit provided by chapter 88; and
- 8 (3) Be subject to the age and service requirements under
9 section 88-331 when the member again retires.

10 (d) If a retirant's designation of beneficiary was
11 irrevocable upon the retirant's initial retirement, the retirant
12 may not change the retirant's designated beneficiary when the
13 retirant returns to service or when the former retirant again
14 retires.

15 (e) A retirant who returns to service shall not be
16 considered to be "in service", for the purposes of section
17 88-334, 88-336, 88-338, or 88-339, or any other provision of
18 this chapter providing for benefits arising out of the
19 disability or death of a member. A retirant who returns to
20 service and dies during the period of reemployment shall be
21 considered to have retired again effective as of the first day
22 of the month following the month in which the death occurs,

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1 except for death during the month of December when the effective
2 date of retirement may be the last day of the month.

3 [~~e~~] (f) The board shall adopt any rules as may be
4 required to administer the purposes of this section."

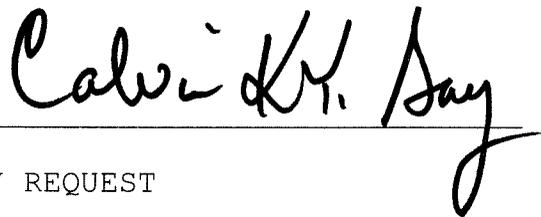
5 SECTION 29. Section 88-72, Hawaii Revised Statutes, is
6 repealed.

7 [~~§88-72 Refund of additional contributions. A member may~~
8 ~~withdraw at any time prior to the member's retirement, all the~~
9 ~~member's voluntary contributions made to provide an annuity in~~
10 ~~addition to the retirement allowance provided under section 88-~~
11 ~~74.~~"]

12 SECTION 30. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 31. This Act shall take effect on July 1, 2007;
15 provided that sections 11, 12, and 24 shall be effective
16 retroactive to July 1, 2006.

17
18 INTRODUCED BY:



19 BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To amend chapter 88, Hawaii Revised Statutes, to clarify and correct existing language, conform statutes to current practice and include language previously omitted from prior legislation.

MEANS: Add a new section to chapter 88, Hawaii Revised Statutes; amend sections 88-21, 88-29, 88-51, 88-59.5(a), 88-62(a) and (b), 88-74, 88-74.6, 88-76, 88-79(a), 88-81(a), 88-81.5(a), 88-83, 88-84(a), 88-90.5, 88-93, 88-98, 88-251, 88-273, 88-283, 88-301, 88-322(b) and (f), 88-333, 88-334(b), 88-336(a), 88-338(a), 88-342(a), and 88-344, Hawaii Revised Statutes; and repeal section 88-72, Hawaii Revised Statutes.

JUSTIFICATION: In addition to various housekeeping amendments, this omnibus bill includes the following amendments:

- (1) Section 88-__: Allows payment of interest to Noncontributory members who have employees' retirement system ("ERS") deductions erroneously made from their compensation. Contributory and Hybrid members receive interest on excess contributions made to the ERS.
- (2) Section 88-21: Excludes a "foster child" from being eligible for ERS death benefits if the member dies in service.
- (3) Section 88-29: Allows the ERS Board to set the Chief Investment Officer's salary in the same way it sets the Administrator's salary.

- (4) Section 88-51(13): Makes reference to a nine-month, ten-month or eleven-month schedule for school cafeteria managers or workers since the Department of Education currently has different school schedules.
- (5) Section 88-62(b): Clarifies that the accumulated contributions of a former nonvested Contributory member will be combined if the member returns to work as a class A or B member. However, if the member returns to work after June 30, 2006 as a class H member, the accumulated contributions will be refunded.
- (6) Section 88-74: Adopts Contributory Plan early retirement age reduction factors that are presently in use pursuant to adoption by the employees' retirement system board of trustees.

Requires excess contributions to be refunded upon retirement, termination or death for judges, legislative officers and elected officials if their retirement allowance exceeds the statutory cap of 75%. This change is needed to comply with federal income tax laws.
- (7) Sections 88-79(a) and 88-336(a): Conforms the statute to administrative interpretation by clarifying that a member's eligibility for service-connected disability benefits is based on whether or not the member is incapacitated at the time of application for the benefits.
- (8) Section 88-81(a): Confirms that Hybrid Plan members must make contributions on compensation that is included in "average final compensation."

- (9) Section 88-81.5(a): Clarifies that Hybrid Plan member contributions that are picked up by the employer are subject to the annual federal income tax limits.
- (10) Section 88-83: Allows post retirement allowances to be paid to beneficiaries who select a monthly annuity instead of the lump sum balance under Option One. This proposal arises from the ERS' 2000-2005 actuarial experience study.
- (11) Sections 88-83(a) and 88-333(a): Requires post retirement allowances paid prior to death of a Contributory or Hybrid Plan member be deducted from the member's accumulated contributions in determining benefits payable to the member's beneficiary under the maximum allowance or from the balance of the Contributory Plan retirement allowance insurance reserve under retirement option 1.
- (12) Section 88-83(a): Clarifies that a beneficiary must be a natural person to be eligible to receive a lifetime allowance in lieu of receiving a lump sum payment of the balance of the Contributory Plan retirement allowance option 1 insurance reserve.
- (13) Sections 88-83(b), 88-283(f), and 88-333(b): Conforms the language of the Contributory and Hybrid Plan provisions to the language used in the corresponding sections for the Noncontributory Plan and clarifies that accidental death benefits are in lieu of any other death or retirement benefits.
- (14) Sections 88-83(f), 88-283(g), and 88-333(c): Prohibits a retirant's beneficiary from electing to receive a 100% survivor benefit in lieu of the

option selected by the retirant if the federal minimum distribution rules prohibit the retirant from naming the beneficiary as the beneficiary of a 100% survivor option.

- (15) Sections 88-83(i), 88-283(i) and 88-333(i): Requires beneficiaries of employees' retirement system members and retirants to file a claim for survivor benefits no later than three years from the date of the retirant's or member's death. Current employees' retirement system practice requires this deadline for only accidental and ordinary death benefit claims.
- (16) Section 88-84(a)(2) and 88-338(a)(3): Deletes the requirement that ordinary death benefits with regards to members with 10 years of service who are not eligible for retirement be computed in the same manner as ordinary disability benefits for members with 10 years of service who are not eligible for retirement. Ordinary death benefits will be based on the member's years of service, as though the member was old enough to retire.
- (17) Section 88-283 (a)(3): Suspends the 10 year end date for Option C retirants who return to work and confirms that the remaining balance of the ten-year guarantee period will resume when the member again retires.
- (18) Section 88-90.5: Clarifies that whenever the board of trustees of the employees' retirement system is authorized or required to adopt actuarial tables, factors, or assumptions the board may do so at a duly noticed meeting.
- (19) 88-98, 88-273, 88-344: Confirms that the additional benefit for a retirant who returns to work continues to be

calculated as a "tack on" benefit even if the member dies or becomes disabled during the reemployment period.

- (20) Sections 88-251(3) and 88-301(3): Makes section 88-89, which provides a \$50 minimum monthly pension, apply to Noncontributory and Hybrid Plan retirants. This minimum is already available to Contributory Plan retirants.
- (21) Section 88-283(a): Conforms the statute to administrative interpretation and provides for consistency in the language which currently exists for retirement allowance options 2 and 3 under the Contributory and Hybrid Plans by clarifying that, if a retirant's designated beneficiary dies prior to the retirant, all retirement allowance payments cease upon the death of the retirant for Noncontributory Plan retirement allowance options A and B.
- (22) Section 88-283(a)(3): Conforms the statute to administrative interpretation by allowing only one beneficiary for retirement allowance option C under the Noncontributory Plan.
- (23) Section 283(g): Conforms the language to be consistent with the corresponding provisions of the Contributory and Hybrid Plans by providing that if a Noncontributory Plan retirant dies within a year after retiring and the retirant's beneficiary elects to receive a retirement allowance under Option A or B instead of the option selected by the retirant, the beneficiary's benefits are reduced by the difference in the benefits the retirant received and the benefits the retirant would have received under the option

selected by the beneficiary. Current law requires that the difference in benefits be returned to the ERS before the beneficiary can receive benefits.

- (24) Section 88-322(b) and (f): Amends the valuation date to determine the employee's cost for the hybrid conversion from June 30, 2006 to the last day of the month six months prior to the date the Board publishes notice that the conversion of service will be allowed.

Because of questions as to whether and how the conversion of Noncontributory service to Hybrid service can be accomplished, the conversion date will be later than originally anticipated. Pushing back the valuation date is necessary to maintain the conversion's cost neutrality to the ERS.

- (25) Section 88-333(h): Confirms that Hybrid Plan retirants are entitled to the same "pop-up" benefits that Contributory Plan retirants receive if the retirant's beneficiary under retirement allowance options 2, 3, and in some cases, 4, predeceases the retirant, the retirant's retirement allowance will "pop-up" to the applicable maximum allowance.

- (26) Section 88-334(b): Allows Hybrid Plan members to retire at any time once their ordinary disability applications have been approved by the Board. These provisions are currently allowed for members of the Contributory and Noncontributory Plans.

- (27) Sections 88-72, 88-74(2) and 88-74(3)(c): Repeals the refund of voluntary contributions as these provisions are no longer used.

IMPACT ON THE
PUBLIC:

None.

IMPACT ON THE
DEPARTMENT AND
OTHER AGENCIES:

The amendments will streamline the administration of the employees' retirement system.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM
DESIGNATION:

BUF-141/Retirement.

OTHER AFFECTED
AGENCIES:

All State and county public employers.

EFFECTIVE DATE:

July 1, 2007; provided that the sections that amend sections 88-81(a), 88-81.5(a), and 88-334(b), Hawaii Revised Statutes, shall be effective retroactive to July 1, 2006.