
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:

10 (1) Refund of the deductions to the member; or

11 (2) Return of the deductions to the member's employer.

12 The foregoing shall not require the payment of interest on
13 deductions made from any amounts that exceed the compensation to
14 which a member is entitled."

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

18 "Child or children":



- 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 salary~~] Effective July 1,
 18 2007, the salaries of the administrator and chief investment
 19 officer shall be set by the board[~~, provided that the salary~~
 20 ~~shall be set at not more than the salary of the governor as~~
 21 ~~established under section 26-51~~]. 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 [+]
15 subsequent to:
- 16 (A) [~~subsequent to~~] January 1, 1926, by an employee
17 of the State; or
- 18 (B) [~~subsequent to~~] January 1, 1928, by an employee
19 of any county;
- 20 (3) Service as an employee of the federal government where
21 the function carried on by the federal government has
22 been transferred to the State or any county, or where



1 the employee has been transferred to the federal
2 government and subsequently retransferred to the State
3 or any county;

4 (4) Service rendered by an employee in the office of the
5 delegate to Congress from Hawaii, or service rendered
6 by an employee in the office of a representative or a
7 senator to Congress from the State; provided that:

8 (A) [~~the~~] The employee was a member of the system
9 immediately preceding the time the employee
10 renders [~~such~~] the service;

11 (B) [~~the~~] The employee reenters the service of the
12 State or county within one year after termination
13 of [~~such~~] the service; and

14 (C) [~~the~~] The employee has, to the satisfaction of
15 the board [~~of trustees~~], waived the employee's
16 right to any credit under the Civil Service
17 Retirement Act (5 U.S.C.A. [~~2251~~]) Sections 8301
18 to 8351), as amended, or the Federal Employees
19 Retirement System Act (5 U.S.C.A. Sections 8401
20 to 8479), as amended, based upon [~~such~~] the
21 service;



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



- 1 (9) Service rendered prior to becoming a member as a full-
2 time employee at the Leahi Hospital or Pahala
3 Hospital, now known as Ka'u [General] Hospital,
4 Puunene Hospital, Waimea Hospital, Waimea, Kauai,
5 Haliimaile Dispensary, and Paia Hospital and Pioneer
6 Mill Hospital;
- 7 (10) Service rendered prior to becoming a member as a full-
8 time sheriff or deputy sheriff in the office of the
9 sheriff;
- 10 (11) The period of time when a member was absent from work
11 because of injuries incurred within the scope of the
12 member's employment and who has received workers'
13 compensation benefits prior to July 1, 1967;
- 14 (12) Service rendered as an employee of the legislature
15 during any legislative session;
- 16 (13) Service as a school cafeteria manager or worker if
17 paid by the State regardless of the source of funds
18 from which paid; provided that twelve months' service
19 shall be credited for the time [~~such a person~~] the
20 cafeteria manager or worker was working on a [~~nine-~~
21 ~~month~~] nine-month, ten-month, or eleven-month schedule
22 during a school year; and



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

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

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

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

17 (1) The member claims those years as membership service
18 credit and purchases that membership service credit in
19 accordance with section 88-59; and

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

21 (A) If the member was a class A member of the system
22 and elected to become a class C member pursuant



1 to section 88-271, the member repurchases all the
 2 years of service as a class C member in
 3 accordance with the procedures under section 88-
 4 59 to regain standing as a contributory member;
 5 and

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

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

13 "(a) If a former member who has less than five years of
 14 credited service and who has been out of service for a period of
 15 four full calendar years or more after the year in which the
 16 former member left service, or if a former member who withdrew
 17 the former member's accumulated contributions returns to
 18 service, the former member shall become a member in the same
 19 manner and under the same conditions as anyone first entering
 20 service; however, the former member may obtain membership
 21 service credit in the manner provided by applicable law for
 22 credited service that was forfeited by the member upon



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

19 To be eligible for any benefit, the member shall fulfill
20 the membership service requirements for the benefit through
21 membership service after again becoming a member, in addition to
22 meeting any other eligibility requirement established for the



1 benefit; provided that the membership service requirement shall
2 be exclusive of any former service acquired in accordance with
3 section 88-59 or any other section in [~~this~~] part[-] II, VII, or
4 VIII.

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

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

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

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



1 "§88-74 Allowance on service retirement. (a) Upon
2 retirement from service, a member shall receive a maximum
3 retirement allowance as follows:

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

18 (A) After June 30, 1968, if the member has at least
19 ten years of credited service of which the last
20 five or more years prior to retirement is
21 credited service as a firefighter, police



- 1 officer, or an investigator of the department of
2 the prosecuting attorney;
- 3 (B) After June 30, 1977, 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 a corrections officer;
- 7 (C) After June 16, 1981, if the member has at least
8 ten years of credited service of which the last
9 five or more years prior to retirement is
10 credited service as an investigator of the
11 department of the attorney general;
- 12 (D) After June 30, 1989, if the member has at least
13 ten years of credited service of which the last
14 five or more years prior to retirement is
15 credited service as a narcotics enforcement
16 investigator;
- 17 (E) After December 31, 1993, if the member has at
18 least ten years of credited service of which the
19 last five or more years prior to retirement is
20 credited service as a water safety officer;
- 21 (F) After June 30, 1994, if the member has at least
22 ten years of credited service, of which the last



1 five or more years prior to retirement are
2 credited service as a public safety
3 investigations staff investigator;
4 (G) After June 30, 2002, if the member:
5 (i) Has at least ten years of credited service
6 as a firefighter;
7 (ii) Is deemed permanently medically disqualified
8 due to a service related disability to be a
9 firefighter by the employer's physician; and
10 (iii) Continues employment in a class A or B
11 position other than a firefighter; and
12 (H) After June 30, 2004, if the member:
13 (i) Has at least ten years of credited service
14 as a police officer;
15 (ii) Is deemed permanently medically disqualified
16 due to a service related disability to be a
17 police officer by the employer's physician;
18 and
19 (iii) Continues employment in a class A or B
20 position other than a police officer;
21 then for each year of service as a firefighter, police
22 officer, corrections officer, investigator of the



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



1 ~~officer, of which the last five or more years prior to~~
2 ~~retirement is credited service in such capacities,~~
3 ~~(2) If the member has made voluntary additional~~
4 ~~contributions for the purchase of an additional~~
5 ~~annuity and has not applied for a refund as permitted~~
6 ~~by section 88-72, the member may accept the refund at~~
7 ~~the time of retirement or, in lieu thereof, receive in~~
8 ~~addition to the retirement allowance provided in~~
9 ~~paragraph (1), an annuity that is the actuarial~~
10 ~~equivalent of the additional contributions with~~
11 ~~regular interest,] for age as provided in subsection~~
12 ~~(b) ;~~

13 ~~[(3)]~~ (2) If the member has credited service as a judge,
14 the member's retirement allowance shall be computed on
15 the following basis:

16 (A) For a member who has credited service as a judge
17 before July 1, 1999, irrespective of age, for
18 each year of credited service as a judge, three
19 and one-half per cent of the member's average
20 final compensation in addition to an annuity that
21 is the actuarial equivalent of the member's

1 accumulated contributions allocable to the period
2 of [such] service; and

3 (B) For a member who first earned credited service as
4 a judge after June 30, 1999, for each year of
5 credited service as a judge, three and one-half
6 per cent of the member's average final
7 compensation in addition to an annuity that is
8 the actuarial equivalent of the member's
9 accumulated contributions allocable to the period
10 of [such] service. If the member has not
11 attained age fifty-five, the member's retirement
12 allowance shall be computed as though the member
13 had attained age fifty-five, reduced [~~in~~
14 ~~accordance with factors of actuarial equivalence~~
15 ~~adopted by the board upon the advice of the~~
16 ~~actuary,~~] for age as provided in subsection (b);
17 or

18 (C) For a judge with other credited service, as
19 provided in [~~paragraphs~~] paragraph (1) [~~and (2)~~].
20 If the member has not attained age fifty-five,
21 the member's retirement allowance shall be
22 computed as though the member had attained age



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

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

8 No allowance shall exceed seventy-five per cent of the
9 member's average final compensation. If the allowance
10 exceeds this limit, it shall be adjusted by reducing
11 the annuity included in subparagraphs (A) and (B) and
12 the portion of the accumulated contributions specified
13 in the subparagraphs in excess of the requirements of
14 the reduced annuity shall be returned to the member[-]
15 upon the member's retirement or paid to the member's
16 designated beneficiary upon the member's death while
17 in service or while on authorized leave without pay.

18 The allowance for judges under this paragraph,
19 together with the retirement allowance provided by the
20 federal government for similar service, shall in no
21 case exceed seventy-five per cent of the member's
22 average final compensation; or



1 ~~[(4)]~~ (3) If the member has credited service as an elective
2 officer or as a legislative officer, the member's
3 retirement allowance shall be derived by adding the
4 allowances computed separately under subparagraphs
5 (A), (B), (C), and (D) as follows:

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

14 (B) Irrespective of age, for each year of credited
15 service as a legislative officer, three and one-
16 half per cent of the member's average final
17 compensation as computed under section 88-
18 81(e) (2), in addition to an annuity that is the
19 actuarial equivalent of the member's accumulated
20 contributions allocable to the period of service;



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

4 (i) For a member who has credited service as a
5 judge before July 1, 1999, irrespective of
6 age, for each year of credited service as a
7 judge, three and one-half per cent of the
8 member's average final compensation as
9 computed under section 88-81(e)(3), in
10 addition to an annuity that is the actuarial
11 equivalent of the member's accumulated
12 contributions allocable to the period of
13 [such] service; and

14 (ii) For a member who first earned credited
15 service as a judge after June 30, 1999, and
16 has attained the age of fifty-five, for each
17 year of credited service as a judge, three
18 and one-half per cent of the member's
19 average final compensation as computed under
20 section 88-81(e)(3), in addition to an
21 annuity that is the actuarial equivalent of
22 the member's accumulated contributions



1 allocable to the period of [such] service.
2 If the member has not attained age fifty-
3 five, the member's retirement allowance
4 shall be computed as though the member had
5 attained age fifty-five, reduced [~~in~~
6 ~~accordance with factors of actuarial~~
7 ~~equivalence adopted by the board upon the~~
8 ~~advice of the actuary,~~] for age as provided
9 in subsection (b); and

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



1 ~~adopted by the board upon the advice of the~~
2 ~~actuary.]~~ for age as provided in subsection (b).

3 The total retirement allowance shall not exceed
4 seventy-five per cent of the member's highest average
5 final compensation calculated under section 88-
6 81(e) (1), (2), (3), or (4). If the allowance exceeds
7 this limit, it shall be adjusted by reducing any
8 annuity accrued under subparagraphs (A), (B), and (C)
9 and the portion of the accumulated contributions
10 specified in these subparagraphs in excess of the
11 requirements of the reduced annuity shall be returned
12 to the member~~[-]~~ upon the member's retirement or paid
13 to the member's designated beneficiary upon the
14 member's death while in service or while on authorized
15 leave without pay. If a member has service credit as
16 an elective officer or as a legislative officer in
17 addition to service credit as a judge, then the
18 retirement benefit calculation contained in this
19 paragraph shall supersede the formula contained in
20 paragraph ~~[(3)-]~~ (2).

21 (b) Except as provided in subsection (a), if a member has
22 not attained age fifty-five at the date of retirement, the



1 member's retirement allowance shall be reduced, for each month
2 the member's age at the date of retirement is below age fifty-
3 five, as follows:

4 (1) 0.4166 per cent for each month below age fifty-five
5 and above age forty-nine and eleven months; plus

6 (2) 0.3333 per cent for each month below age fifty and
7 above age forty-four and eleven months; plus

8 (3) 0.2500 per cent for each month below age forty-five
9 and above age thirty-nine and eleven months; plus

10 (4) 0.1666 per cent for each month below age forty;

11 provided that no reduction shall be made if the member has at
12 least twenty-five years of credited service as a firefighter,
13 police officer, corrections officer, investigator of the
14 department of the prosecuting attorney, investigator of the
15 department of the attorney general, narcotics enforcement
16 investigator, public safety investigations staff investigator,
17 sewer worker, or water safety officer, of which the last five or
18 more years prior to retirement is credited service in these
19 capacities."

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

1 " ~~[§88-74.6]~~ **Unreduced allowance on service retirement;**
2 **when applicable.** In addition to those positions identified in
3 section ~~[88-74(1),]~~ 88-74(b) and notwithstanding any law in this
4 part that requires a member to attain age fifty-five to qualify
5 for an unreduced service retirement allowance, if the member has
6 at least thirty years of credited service through June 30, 2003;
7 twenty-nine years of credited service on or after July 1, 2004;
8 twenty-eight years of credited service on or after July 1, 2005;
9 twenty-seven years of credited service on or after July 1, 2006;
10 twenty-six years of credited service on or after July 1, 2007;
11 and twenty-five years of credited service on or after July 1,
12 2008, as an emergency medical technician, of which the last five
13 or more years prior to retirement is credited service in that
14 capacity, then upon retirement and irrespective of age, that
15 member's service retirement allowance shall not be reduced for
16 actuarial purposes."

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

19 "**§88-76 Allowance on ordinary disability retirement.** Upon
20 retirement for ordinary disability, a member shall receive a
21 maximum retirement allowance of one and three-fourths per cent
22 of the member's average final compensation for each year of



1 credited service; except that for each year of credited service
2 as a judge, an elective officer, or a legislative officer, the
3 member shall receive a maximum retirement allowance computed as
4 provided in section [~~88-74(3) or (4)~~], 88-74(a)(2) or (3), as
5 applicable. The minimum retirement allowance payable under this
6 section shall be thirty per cent of the member's average final
7 compensation."

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

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

19 (1) In the case of an accident occurring after July 1,
20 1963, the employer shall file with the [~~board~~] system
21 a copy of the employer's report of the accident



- 1 submitted to the director of labor and industrial
2 relations;
- 3 (2) An application for retirement is filed with the
4 [~~board~~] system within two years of the date of the
5 accident, or the date upon which workers' compensation
6 benefits cease, whichever is later;
- 7 (3) Certification is made by the head of the agency in
8 which the member is employed, stating the time, place,
9 and conditions of the service performed by the member
10 resulting in the member's disability and that the
11 disability was not the result of wilful negligence on
12 the part of the member; and
- 13 (4) The medical board certifies that the member is
14 incapacitated for the further performance of duty at
15 the time of application and that the member's
16 incapacity is likely to be permanent."

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

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



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

3 "(a) Effective July 1, 1996, compensation used to
4 determine "average final compensation" under section 88-81 and
5 employee contributions picked up by the employer under section
6 88-46[~~r~~] or 88-326, shall be subject to the annual limit set
7 forth in section 401(a)(17) of the Internal Revenue Code of
8 1986, as amended."

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

11 "~~§88-83~~ **Election of retirement allowance option.** (a)
12 Upon retirement, any member may elect to receive the maximum
13 retirement allowance to which the member is entitled computed in
14 accordance with section 88-74, 88-76, or 88-80, and in the event
15 of the [~~member's~~] retirant's death, there shall be paid to the
16 [~~member's~~] retirant's designated beneficiary, or otherwise to
17 the [~~member's~~] retirant's estate[~~r~~] the difference between
18 [~~the~~]:

19 (1) The balance of the member's accumulated contributions
20 at the time of the member's retirement; and [~~the~~]

21 (2) The retirement allowance and, if the retirant retired
22 after November 30, 2004, the post retirement



1 allowances paid or payable to the ~~[member]~~ retirant
2 prior to death.

3 In lieu of this maximum allowance, the member may elect to
4 receive the member's retirement allowance under any one of the
5 optional plans described below, which shall be actuarially
6 equivalent to the maximum allowance.

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



1 (1) Retired after November 30, 2004, and
2 (2) Dies after June 30, 2007,
3 elects to receive the allowance in lieu of the lump sum balance,
4 there shall also be payable to the beneficiary an additional
5 allowance calculated and payable in the same manner as a post
6 retirement allowance under section 88-90. The additional
7 allowance shall be based on the original amount of the allowance
8 in lieu of the lump sum balance, and shall commence on the first
9 day of July following the calendar year in which payment of the
10 allowance in lieu of the lump sum balance is effective.

11 Option 2: The member may elect to receive a lesser
12 retirement allowance during the member's lifetime and have those
13 allowances, including cumulative post retirement allowances, if
14 applicable, continued after the member's death to the member's
15 beneficiary designated at the time of the member's retirement,
16 for the life of the beneficiary. If the beneficiary dies prior
17 to the retirant, all further payments shall cease upon the death
18 of the retirant; provided that for members retiring after
19 November 30, 2004, if the retirant's designated beneficiary dies
20 at any time after the retirant retired, but before the death of
21 the retirant, the retirant, upon the death of the retirant's
22 designated beneficiary, shall receive a retirement allowance,



1 including cumulative post retirement allowances, calculated as
2 if the retirant had selected the maximum retirement allowance to
3 which the [~~member~~] retirant is entitled. Only one beneficiary
4 shall be designated under this option. The beneficiary
5 designated under this option shall be a natural person, and
6 benefits under this option shall only be paid to a natural
7 person.

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



1 the [~~member~~] retirant is entitled. Only one beneficiary shall
2 be designated under this option. The beneficiary designated
3 under this option shall be a natural person, and benefits under
4 this option shall only be paid to a natural person.

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

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



1 To receive benefits, the beneficiary must have been
2 designated by the member in the form and manner prescribed by
3 the board.

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



1 receive benefits under section 88-85, the designated beneficiary
2 may receive benefits pursuant to an election made under this
3 section pending disposition of the claim for benefits under
4 section 88-85. If death benefits are payable under section
5 88-85, the death benefits shall be in lieu of any benefits
6 payable pursuant to this section.

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;

19 (2) The member selects option 2 or option 3 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.

15 Any notice provided to a spouse or reciprocal
16 beneficiary, or determination that the notification of
17 a spouse or reciprocal beneficiary cannot be provided,
18 shall be effective only with respect to that spouse or
19 reciprocal beneficiary. The system will rely upon the
20 representations made by a member as to whether the
21 member has a spouse or reciprocal beneficiary and the



1 name and address of the member's spouse or reciprocal
2 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) In the event of the death of the retirant within one
17 year after the date of retirement, the retirant's designated
18 beneficiary may elect to receive either the death benefit under
19 the retirement allowance option selected by the retirant, or the
20 ~~[benefits as]~~ benefit that would have been paid under section
21 88-84 had the retirant died immediately prior to retirement,
22 less any payments ~~[which the retirant]~~ received~~[-]~~ by the



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

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

16 (h) Upon a member's retirement:

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

19 (2) The member's designation of a beneficiary shall be
20 irrevocable if the retirement allowance option elected
21 by the member is:

22 (A) Option 2 or 3;



- 1 (B) An option that includes option 2 or 3 in
2 combination with some other form of benefit
3 payment; or
- 4 (C) Any other option for which the actuarial
5 equivalent of the option to the maximum
6 retirement allowance is determined at the time of
7 the member's retirement based in whole or in part
8 on the age of the member's designated
9 beneficiary.

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

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

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

- 20 (1) The member's accumulated contributions and, if no
21 pension is payable under section 88-85, an amount
22 equal to fifty per cent of the compensation earned by



1 the member during the year immediately preceding the
2 member's death if the member had at least one year but
3 not more than ten full years of credited service,
4 which amount shall increase by five per cent for each
5 full year of service in excess of ten years, to a
6 maximum of one hundred per cent of the compensation;
7 provided that if the member had at least one year of
8 credited service, the amount, together with the
9 member's accumulated contributions shall not be less
10 than one hundred per cent of the compensation;

11 (2) If the member had ten or more years of credited
12 service at the time of death in service, and the death
13 occurred after June 30, 1988, the member's designated
14 beneficiary may elect to receive in lieu of any other
15 payment provided in this section, the allowance that
16 would have been payable as if the member had retired
17 on the first day of a month following the member's
18 death, except for the month of December when
19 retirement on the first or last day of the month shall
20 be allowed. Benefits payable under this paragraph
21 shall be calculated under option 3 of section 88-83



1 and computed on the basis of section [~~88-76+~~] 88-74,
2 unreduced for age; or

- 3 (3) If the member was eligible for service retirement at
4 the time of death in service, the member's designated
5 beneficiary may elect to receive in lieu of any other
6 payment provided in this section, the allowance that
7 would have been payable as if the member had retired
8 on the first day of a month following the member's
9 death, except for the month of December when
10 retirement on the first or last day of the month shall
11 be allowed. Benefits payable under this paragraph
12 shall be calculated under option 2 of section 88-83[+] and
13 computed on the basis of section 88-74."

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

16 "[+]§88-90.5[+] **Actuarial assumptions.** (a)

17 Notwithstanding any provision in [~~chapter 88~~] this chapter to the
18 contrary, the board [~~of trustees~~] may approve the effect of the
19 post retirement allowance under section 88-90, or of any other
20 mandatory fixed scheduled increase in the benefits payable under
21 part II, VII, or VIII, as an actuarial assumption for the purpose



1 of determining the value of the options available under sections
2 88-83, 88-283, and 88-333.

3 (b) Subject to the recommendation of the actuary appointed
4 under section 88-29, the board may adopt, by motion at any duly
5 noticed meeting of the board, actuarial tables, factors, and
6 assumptions for the purposes of parts II, VII, and VIII. The
7 tables, factors, and assumptions that are used to compute
8 benefits shall be in writing and certified by the
9 administrator."

10 SECTION 16. Section 88-93, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§88-93 Named beneficiaries by members and by former
13 employees, ~~[with vested benefit status,]~~ effect of marriage,
14 entry into reciprocal beneficiary relationship, divorce,
15 termination of reciprocal beneficiary relationship, or death.

16 (a) All written designations of beneficiaries for members and
17 for former employees ~~[with vested benefit status]~~ shall become
18 null and void when:

- 19 (1) The beneficiary predeceases the member or former
20 employee;
- 21 (2) The member or former employee is divorced from the
22 beneficiary;



1 (3) The member or former employee is unmarried, and
2 subsequently marries; or

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

5 Any of the above events shall operate as a complete revocation
6 of the designation and, except as provided in sections 88-84(b)
7 and [~~88-333(b)~~], 88-338(b) all benefits payable by reason of the
8 death of the member or former employee shall be payable to the
9 member's or former employee's estate unless, after the death,
10 divorce or marriage, or entry into or termination of reciprocal
11 beneficiary relationship, the member or former employee makes
12 other provision in a written designation duly executed and filed
13 with the board.

14 (b) Subsection (a) shall not apply to active members who
15 are former retirants who have returned to service. The
16 beneficiaries of retirants who return to service may not be
17 changed except to the extent provided under the retirement
18 allowance option selected by the former retirant when the former
19 retirant first retired."

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

1 "§88-98 Return to service of a retirant. (a) Any
2 retirant who returns to employment requiring active membership
3 in the system shall be reenrolled as an active member of the
4 system in the same class from which the retirant originally
5 retired and the retirant's retirement allowance shall be
6 suspended.

7 (1) If the retirant returns to service before July 1,
8 1998, and again retires, the retirant's retirement
9 allowance shall consist of:

10 (A) For members with fewer than three years of
11 credited service during the member's period of
12 reemployment, the allowance to which the member
13 was entitled under the retirement allowance
14 option selected when the member previously
15 retired and which was suspended; plus, for the
16 period of service during the member's
17 reemployment, the allowance to which the member
18 is entitled for that service based on the
19 retirement allowance option initially selected
20 and computed for the member's age, average final
21 compensation, and other factors in accordance
22 with the benefit formula under section 88-74 in



1 existence at the time of the member's latest
2 retirement; or

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

10 (2) If the retirant returns to service after June 30,
11 1998, and again retires, the retirant's retirement
12 allowance shall be computed in accordance with
13 paragraph (1)(A), regardless of the number of years of
14 service in the reemployment period.

15 (b) Any retirant who received the special retirement
16 incentive benefit under Act 253, Session Laws of Hawaii 2000, as
17 amended by Act 131, Session Laws of Hawaii 2002, and is
18 reemployed by the State or a county in any capacity shall:

- 19 (1) Have the retirant's retirement allowance suspended;
- 20 (2) Forfeit the special retirement incentive benefit and
21 any related benefit provided by [~~chapter 887~~] this
22 chapter; and



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

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

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

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

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



1 **"§88-251 Applicability.** The following provisions of part
2 II shall apply to this part:

3 (1) Subpart A, except the definitions provided in section
4 88-21, unless expressly adopted in section 88-261;

5 (2) Subpart B, except sections 88-45, 88-45.5, 88-46, 88-
6 48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;

7 (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74,
8 88-74.6, 88-75, 88-76, [~~88-79,7~~] 88-80, 88-83, 88-84,
9 88-85, 88-87, 88-88, [~~88-89,7~~] 88-96, 88-97, and 88-98;

10 (4) Subpart D, except sections 88-112 and 88-113; and

11 (5) Subpart E."

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

14 **"§88-273 Break in service; reemployment.** (a) Any class C
15 member who terminates service prior to accumulating ten years of
16 credited service, excluding unused sick leave, shall cease to be
17 a member and shall forfeit all credited service; provided that:

18 (1) If the former class C member becomes a member again
19 within one calendar year from the date of termination,
20 all service credit for previous service shall be
21 restored. If the former class C member becomes a
22 member again more than one calendar year after the



1 date of termination, one month of service credit for
2 previous service shall be restored for each month of
3 service rendered following the return to membership.

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

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

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

21 (c) Any retirant who retired under the provisions of [part
22 ~~VII of this chapter~~] this part and returns to service requiring



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

18 (d) Any retirant who retired under the provisions of [part
19 VII] this part and returns to service requiring active
20 membership in the system as a class A or class B member shall be
21 reenrolled as an active member, and the retirant's retirement
22 allowance shall be suspended. When the member again retires,



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

15 (e) Any retirant who received the special retirement
16 incentive benefit under Act 253, Session Laws of Hawaii 2000, as
17 amended by Act 131, Session Laws of Hawaii 2002, and is
18 reemployed by the State or a county in any capacity shall:

- 19 (1) Have the retirant's retirement allowance suspended;
20 (2) Forfeit the special retirement incentive benefit and
21 any other related benefit provided by [~~chapter 88,~~]
22 this chapter; and



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

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

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

18 (h) The board shall adopt any rules as may be required to
19 administer this section."

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



1 "§88-283 Election of retirement allowance option. (a)

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

12 (1) Option A: A reduced allowance payable to the member,
13 then upon the member's death, one-half of the
14 allowance, including fifty per cent of all cumulative
15 post retirement allowances, to the member's
16 beneficiary designated by the member at the time of
17 retirement, for the life of the beneficiary[+]. If
18 the beneficiary dies prior to the retirant, all
19 further payments shall cease upon the death of the
20 retirant; provided that for members retiring after
21 November 30, 2004, if the retirant's designated
22 beneficiary dies at any time after the retirant



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

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



1 had selected the maximum retirement allowance to which
2 the retirant is entitled; or

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

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

21 (b) Upon a member's retirement:



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

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

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

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

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

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

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

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

15 Any notice provided to a spouse or reciprocal
16 beneficiary, or determination that the notification of
17 a spouse or reciprocal beneficiary cannot be provided,
18 shall be effective only with respect to that spouse or
19 reciprocal beneficiary. The system shall rely upon
20 the representations made by a member as to whether the
21 member has a spouse or reciprocal beneficiary and the



1 name and address of the member's spouse or reciprocal
2 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 board 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 [the]:



1 either the death benefit under section 88-338 or the allowance
2 under the option selected by the member that would have been
3 payable had the member retired. The effective date of the
4 member's retirement shall be the first day of a month, except
5 for the month of December when the effective date of retirement
6 may be on the first or last day of the month, and shall be no
7 earlier than the later of thirty days from the date the member's
8 retirement application was filed or the day following the
9 member's date of death. The election may not be made if, at the
10 time of the member's death, there are individuals who are
11 eligible to receive death benefits under section 88-339 who have
12 made a claim for the benefits; provided that, if the designated
13 beneficiary is an individual eligible to receive benefits under
14 section 88-339, the designated beneficiary may receive benefits
15 pursuant to an election made under this section pending
16 disposition of the claim for benefits under section 88-339. If
17 death benefits are payable under section 88-339, the death
18 benefits shall be in lieu of any benefits payable pursuant to
19 this section.

20 (c) If a retirant dies within one year after the date of
21 retirement, the retirant's designated beneficiary may elect to
22 receive either the death benefit under the retirement allowance



1 option selected by the [~~member,~~] retirant or the benefits that
2 would have been paid under section 88-338 had the retirant died
3 immediately prior to retirement, less any payments received by
4 the retirant[-]; provided that the designated beneficiary may
5 not elect to receive benefits under option 2 of section 88-83 if
6 the retirant would not have been permitted by applicable law or
7 by the rules of the board to name the designated beneficiary as
8 beneficiary under option 2.

9 (d) 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 described in section 88-83;

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
22 the member's retirement based in whole or in part



1 on the age of the member's designated
2 beneficiary.

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

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

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

10 (B) Provides information indicating the effect of the
11 election; and

12 (C) Is determined adequate by rules adopted by the
13 board in accordance with chapter 91;

14 (2) The member selects option 2 or option 3 under section
15 88-83 and designates the spouse or reciprocal
16 beneficiary as the beneficiary; or

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

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

21 (B) The spouse or reciprocal beneficiary cannot be
22 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 board rules
7 adopted in accordance with chapter 91.

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

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

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



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

20 (i) A claim under this section by a retirant's or member's
21 beneficiary for benefits upon the death of a retirant or member



1 shall be filed no later than three years from the date of the
2 retirant's or member's death."

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

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

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

19 "(a) Upon application of a class H member, or the person
20 appointed by the family court as guardian of an incapacitated
21 member, any class H member who has been permanently
22 incapacitated for duty as the natural and proximate result of an



1 accident occurring while in the actual performance of duty at
2 some definite time and place, or as the cumulative result of
3 some occupational hazard, through no wilful negligence on the
4 member's part, may be retired by the board for service-connected
5 disability; provided that:

- 6 (1) In the case of an accident occurring after July 1,
7 1963, the employer shall file with the system a copy
8 of the employer's report of the accident submitted to
9 the director of labor and industrial relations;
- 10 (2) An application for retirement is filed with the system
11 within two years of the date of the accident, or the
12 date upon which workers' compensation benefits cease,
13 whichever is later;
- 14 (3) Certification is made by the head of the agency in
15 which the member is employed, stating the time, place,
16 and conditions of the service performed by the member
17 resulting in the member's disability and that the
18 disability was not the result of wilful negligence on
19 the part of the member; and
- 20 (4) The medical board certifies that the member is
21 incapacitated for the further performance of duty at



1 the time of application and that the member's
2 incapacity is likely to be permanent."

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

5 "(a) Upon receipt by the system of proper proof of a class
6 H member's death occurring in service or while on authorized
7 leave without pay and if no pension is payable under section
8 88-339, there shall be paid to the member's designated
9 beneficiary an ordinary death benefit as follows:

10 (1) If the member had less than five years of credited
11 service at the time of death, the member's accumulated
12 contributions shall be paid to the member's designated
13 beneficiary;

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

18 (3) If the member had ten or more years of credited
19 service at the time of death, the member's designated
20 beneficiary may elect to receive in lieu of any other
21 payment provided in this section, the allowance that
22 would have been payable as if the member had retired



1 on the first day of a month following the member's
2 death, except for the month of December when
3 retirement on the first or last day of the month shall
4 be allowed. Benefits payable under this paragraph
5 shall be calculated under option 3 of section 88-83
6 and computed on the basis of section [~~88-335~~] 88-332,
7 unreduced for age; or

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

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

21 "(a) When a former class H member who does not have vested
22 benefit status returns to service, the former member shall



1 become a member in the same manner and under the same conditions
2 as anyone first entering service and, except as provided in
3 subsection (b), to be eligible for any benefit, the member shall
4 fulfill the membership service requirements for the benefit
5 through membership service after again becoming a member in
6 addition to meeting any other eligibility requirement
7 established for the benefit; provided that the membership
8 service requirement shall be exclusive of any former service
9 acquired in accordance with section 88-324 or any other section
10 in [~~this~~] part ~~[--]~~ II, VII, or VIII."

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

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

20 (1) The allowance to which the member was entitled under
21 the retirement allowance option selected when the
22 member previously retired and which was suspended; and



1 (2) For the period of service during the member's
 2 reemployment, the allowance to which the member is
 3 entitled for that service based on the retirement
 4 allowance option initially selected and computed for
 5 the member's age, average final compensation, and
 6 other factors in accordance with the benefit formula
 7 of a class H member under section 88-332 in existence
 8 at the time of the member's final retirement.

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

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

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



1 other factors in accordance with the benefit formula
2 of a class A or class B member under section 88-74 in
3 existence at the time of the member's final
4 retirement.

5 (c) Any retirant who received the special retirement
6 incentive benefit under Act 253, Session Laws of Hawaii 2000, as
7 amended by Act 131, Session Laws of Hawaii 2002, and is
8 reemployed by the State or a county in any capacity shall:

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

10 (2) Forfeit the special retirement incentive benefit and
11 any related benefit provided by [~~chapter 88-7~~] this
12 chapter; and

13 (3) Be subject to the age and service requirements under
14 section 88-331 when the member again retires.

15 (d) If a retirant's designation of beneficiary was
16 irrevocable upon the retirant's initial retirement, the retirant
17 may not change the retirant's designated beneficiary when the
18 retirant returns to service or when the former retirant again
19 retires.

20 (e) A retirant who returns to service shall not be
21 considered to be "in service", for the purposes of section
22 88-334, 88-336, 88-338, or 88-339, or any other provision of



1 this chapter providing for benefits arising out of the
2 disability or death of a member. A retirant who returns to
3 service and dies during the period of reemployment shall be
4 considered to have retired again effective as of the first day
5 of the month following the month in which the death occurs,
6 except for death during the month of December when the effective
7 date of retirement may be the last day of the month.

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

10 SECTION 29. Section 88-72, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§88-72 Refund of additional contributions. A member may~~
13 ~~withdraw at any time prior to the member's retirement, all the~~
14 ~~member's voluntary contributions made to provide an annuity in~~
15 ~~addition to the retirement allowance provided under section 88-~~
16 ~~74."]~~

17 SECTION 30. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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



REPORT Title:

Employees' Retirement System

Description:

Allows payment of interest to noncontributory members who have ERS deductions erroneously made from their compensation. Excludes a "foster child" from being eligible for ERS death benefits if the member dies in service. Allows the ERS Board to set the Chief Investment Officer's salary. 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%. Clarifies that Hybrid Plan member contributions that are picked up by the employer are subject to the annual federal income tax limits. Allows post retirement allowances to be paid to beneficiaries who select a monthly annuity instead of the lump sum balance or other clarifying or conforming revisions. (SD2)

