
A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

PART I

SECTION 1. Section 88-74.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The system shall finalize a retirant's pension benefit within six calendar months following the month of the retirant's retirement [-] when the effective date of retirement is the first day of the month. When the effective date of retirement is December 31, the system shall finalize a retirant's pension benefit within seven calendar months following the month of the retirant's retirement. For pension benefits finalized after the sixth calendar month following the month of the retirant's retirement [-] when the effective date of retirement is on the first day of the month, or the seventh calendar month when the effective date of retirement is December 31, an interest payment amounting to ~~[four and one-half]~~ _____ per cent per annum shall be paid to the retirant. Interest shall be calculated on the difference between the



1 amount the retirant is entitled to receive from the retirant's
2 retirement date up to the day the payment is made and the amount
3 the retirant was paid, including any refund of member
4 contributions.

5 Beginning January 1, 2004, or the first day of the seventh
6 calendar month following the month of retirement [7] when the
7 effective date of retirement is on the first day of the month,
8 or the first day of the eighth calendar month following the
9 month of retirement when the effective date of retirement is
10 December 31, whichever is [later,] the latest, interest payments
11 calculated as simple interest shall be prorated up to the date
12 payment is made; provided that any pension adjustment made after
13 the retirant's pension has once been finalized shall not be
14 subject to any interest payment.

15 The system shall finalize ordinary and service-connected
16 disability retirements within six calendar months following the
17 month that the member's retirement is approved by the board or
18 the actual retirement date specified by the member, whichever is
19 later."

20 SECTION 2. Section 88-100, Hawaii Revised Statutes, is
21 amended by amending subsection (e) to read as follows:



1 appointed by the family court as guardian of an incapacitated
2 member, any member who has ten or more years of credited service
3 shall be retired by the [~~board of trustees~~] system on an
4 ordinary disability retirement allowance if the medical board[~~7~~]
5 or other entity designated by the board of trustees, after a
6 medical examination of the member, certifies that:

- 7 (1) The member is mentally or physically incapacitated for
8 the further performance of duty at the time of
9 application;
- 10 (2) The incapacity is likely to be permanent; and
- 11 (3) The member should be retired.

12 (b) Upon approval by the [~~board~~,~~7~~] system, the member shall
13 be eligible to receive an ordinary disability retirement benefit
14 no earlier than thirty days from the date the application was
15 filed or the date the member terminated service, whichever is
16 later. Retirement shall be effective on the first day of a
17 month, except for the month of December when retirement on the
18 first or last day of the month shall be allowed. A member whose
19 application for an ordinary disability retirement allowance is
20 approved by the [~~board~~] system while the member is still in
21 service may terminate service and retire at any time following



1 the approval; provided that retirement shall become effective on
2 the first day of the month following the month the applicant
3 terminates employment or goes off the payroll, except for the
4 month of December when retirement on the first or last day of
5 the month shall be allowed."

6 SECTION 4. Section 88-79, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) [~~Upon~~] Under the rules that the board of trustees may
10 adopt, upon application of a member, or the person appointed by
11 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~~] system for service-connected disability; provided that:

18 (1) In the case of an accident occurring after July 1,
19 1963, the employer shall file with the system a copy
20 of the employer's report of the accident submitted to
21 the director of labor and industrial relations;



- 1 (2) An application for retirement is filed with the system
2 within two years of the date of the accident, or the
3 date upon which workers' compensation benefits cease,
4 whichever is later;
- 5 (3) Certification is made by the head of the agency in
6 which the member is employed, stating the time, place,
7 and conditions of the service performed by the member
8 resulting in the member's disability and that the
9 disability was not the result of wilful negligence on
10 the part of the member; and
- 11 (4) The medical board or other entity designated by the
12 board of trustees certifies that the member is
13 incapacitated for the further performance of duty at
14 the time of application and that the member's
15 incapacity is likely to be permanent."
- 16 2. By amending subsections (c), (d), and (e) to read:
- 17 "(c) The [~~board~~] system may waive strict compliance with
18 the time limits within which a report of the accident and an
19 application for service-connected disability retirement must be
20 filed with the [~~board~~] system if it is satisfied that the
21 failure to file within the time limited by law was due to



1 ignorance of fact or law, inability, or to the fraud,
2 misrepresentation, or deceit of any person, or because the
3 applicant was undergoing treatment for the disability or was
4 receiving vocational rehabilitation services occasioned by the
5 disability.

6 (d) The [~~board~~] system may determine whether or not the
7 disability is the result of an accident occurring while in the
8 actual performance of duty at some definite time and place and
9 that the disability was not the result of wilful negligence on
10 the part of the member. The [~~board~~] system may accept as
11 conclusive:

12 (1) The certification made by the head of the agency in
13 which the member is employed; or

14 (2) A finding to this effect by the medical board[-] or
15 other entity designated by the board of trustees.

16 (e) Upon approval by the [~~board,~~] system, the member shall
17 be eligible to receive a service-connected disability retirement
18 benefit after the member has terminated service. Retirement
19 shall become effective on the first day of a month, except for
20 the month of December when retirement on the first or last day
21 of the month shall be allowed."



1 SECTION 5. Section 88-85, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In the case of an accidental death as determined by
4 the [~~board~~] system pursuant to section 88-85.5, there shall be
5 paid to the member's designated beneficiary or to the member's
6 estate the amount of the member's accumulated contributions and
7 there shall be paid in lieu of the ordinary death benefit
8 payable under section 88-84, a pension of one-half of the
9 average final compensation of the member:

10 (1) To the surviving spouse or reciprocal beneficiary of
11 the member to continue until the surviving spouse or
12 reciprocal beneficiary remarries, marries, or enters
13 into a new reciprocal beneficiary relationship;

14 (2) If there be no surviving spouse or reciprocal
15 beneficiary, or if the surviving spouse or reciprocal
16 beneficiary dies or remarries, marries, or enters into
17 a new reciprocal beneficiary relationship before any
18 child of the deceased member shall have attained the
19 age of eighteen years, then to the deceased member's
20 child or children under the age of eighteen, divided
21 in the manner as the [~~board~~] system in its discretion



1 shall determine, to continue as a joint and survivor
2 pension of one-half of the deceased member's final
3 compensation until every child dies, or attains the
4 age of eighteen; or

5 (3) If there is no surviving spouse or reciprocal
6 beneficiary or child under the age of eighteen years
7 surviving the deceased member, then to the deceased
8 member's dependent father or dependent mother, as the
9 deceased member shall have nominated by written
10 designation duly acknowledged and filed with the
11 [~~board,~~] system, or if there is no nomination, then to
12 the deceased member's dependent father or to the
13 deceased member's dependent mother as the [~~board,~~]
14 system, in its discretion, shall direct to continue
15 for life.

16 The pension shall be effective on the first day of the
17 month following the member's death, except for the month of
18 December, when benefits shall be effective on the first or last
19 day of the month."

20 SECTION 6. Section 88-85.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§88-85.5 Applications for accidental death benefits;
2 approval by the [~~board-~~] system. (a) [~~An~~] Under the rules that
3 the board of trustees may adopt, an application for service-
4 connected accidental death benefits may be filed with the system
5 by or on behalf of the claimant pursuant to section 88-85, 88-
6 286, or 88-339, on a form provided by the system. The
7 application shall be filed no later than three years from the
8 date of the member's death.

9 (b) After the claimant files an application for service-
10 connected accidental death benefits, the system shall obtain the
11 following:

- 12 (1) A copy of the employer's report of the accident
13 submitted by the employer to the department of labor
14 and industrial relations, workers' compensation
15 division, and other reports relating to the accident;
16 (2) A certified statement from the head of the department
17 in which the deceased member was employed, stating the
18 date, time, and place of the accident, and the nature
19 of the service being performed when the accident
20 occurred. The statement shall also include an opinion



1 as to whether or not the accident was the result of
2 wilful negligence on the deceased member's part;

3 (3) A copy of the latest position description of the
4 deceased member's duties and responsibilities;

5 (4) A certified copy of the death certificate; and

6 (5) A copy of an autopsy report, if performed.

7 (c) Upon the system's receipt of the application and
8 documents specified in subsection (b), the medical board or
9 other entity designated by the board of trustees shall determine
10 and certify to the board whether the member's death was an
11 accidental death as defined in section 88-21.

12 (d) The [~~board~~] system may accept as conclusive as to
13 whether or not the member's death was caused by wilful
14 negligence on the part of the member:

15 (1) A certification made by the head of the agency in
16 which the member is employed; or

17 (2) A finding by the medical board[-] or other entity
18 designated by the board of trustees.

19 (e) After the medical board or other entity designated by
20 the board of trustees submits its certification to the system,
21 the [~~board~~] system shall approve or disapprove the application."



1 SECTION 7. Section 88-284, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) ~~[Upon]~~ Under the rules that the board of trustees may
4 adopt, upon application of a member in service or on leave
5 without pay, or the person appointed by the family court as
6 guardian of an incapacitated member, any member who has ten or
7 more years of credited service shall be retired by the ~~[board of~~
8 ~~trustees]~~ system on an ordinary disability retirement allowance
9 if the medical board~~[,]~~ or other entity designated by the board
10 of trustees, after a medical examination of the member,
11 certifies that:

12 (1) The member is mentally or physically incapacitated for
13 the further performance of duty at the time of
14 application;

15 (2) The incapacity is likely to be permanent; and

16 (3) The member should be retired.

17 (b) Upon approval by the ~~[board,]~~ system, the member shall
18 be eligible to receive an ordinary disability retirement benefit
19 no earlier than thirty days from the date the application was
20 filed or the date the member terminated service, whichever is
21 later. Retirement shall be effective on the first day of a



1 month, except for the month of December when retirement on the
2 first or last day of the month shall be allowed. A member whose
3 application for an ordinary disability retirement allowance is
4 approved by the [~~board~~] system while the member is still in
5 service may terminate service and retire at any time following
6 the approval; provided that retirement shall become effective on
7 the first day of the month following the month the applicant
8 terminates employment or goes off the payroll, except for the
9 month of December when retirement on the first or last day of
10 the month shall be allowed."

11 SECTION 8. Section 88-286, Hawaii Revised Statutes, shall
12 be amended by amending subsection (c) to read as follows:

13 "(c) In the case of accidental death as determined by the
14 [~~board~~] system pursuant to section 88-85.5, the death benefit
15 shall be effective on the first day of the month following the
16 member's death, except for the month of December when retirement
17 on the first or last day of the month shall be allowed, as
18 follows:

19 (1) For the surviving spouse or reciprocal beneficiary, an
20 allowance equal to thirty per cent of the member's
21 average final compensation, payable until remarriage,



1 marriage, or upon entry into a new reciprocal
2 beneficiary relationship;

3 (2) If there is a surviving spouse or reciprocal
4 beneficiary, each child under the age of eighteen
5 shall receive an allowance equal to the greater of:

6 (A) Ten per cent of the member's accrued maximum
7 retirement allowance unreduced for age; provided
8 that the aggregate death benefits for all the
9 children under the age of eighteen shall not
10 exceed twenty per cent of the member's accrued
11 maximum retirement allowance unreduced for age;
12 or

13 (B) Three per cent of the member's average final
14 compensation; provided that the aggregate death
15 benefits for all the children under the age of
16 eighteen shall not exceed six per cent of the
17 member's average final compensation.

18 The death benefit under this paragraph shall be
19 payable to each child until the child attains age
20 eighteen; and



- 1 (3) If there is no surviving spouse or reciprocal
2 beneficiary, each child under the age of eighteen
3 shall receive an allowance equal to the greater of:
- 4 (A) Twenty per cent of the member's accrued maximum
5 retirement allowance unreduced for age; provided
6 that the aggregate death benefits for all the
7 children under the age of eighteen shall not
8 exceed forty per cent of the member's accrued
9 maximum retirement allowance unreduced for age;
10 or
- 11 (B) Six per cent of the member's average final
12 compensation; provided that the aggregate death
13 benefits for all the children under the age of
14 eighteen shall not exceed twelve per cent of the
15 member's average final compensation.

16 The death benefit under this paragraph shall be
17 payable to each child until the child attains age
18 eighteen."

19 SECTION 9. Section 88-334, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§88-334 Ordinary disability retirement. (a) [~~Upon~~
2 Under the rules and regulations that the board of trustees may
3 adopt, upon application of a class H member in service or on
4 leave without pay, or the person appointed by the family court
5 as guardian of an incapacitated member, any member who has ten
6 or more years of credited service shall be retired by the
7 [~~board~~] system on an ordinary disability retirement allowance if
8 the medical board[~~7~~] or other entity designated by the board of
9 trustees, after a medical examination of the member, certifies
10 that:

11 (1) The member is mentally or physically incapacitated for
12 the further performance of duty at the time of
13 application;

14 (2) The incapacity is likely to be permanent; and

15 (3) The member should be retired.

16 (b) Upon approval by the [~~board,7~~] system, the member shall
17 be eligible to receive an ordinary disability retirement benefit
18 no earlier than thirty days from the date the application was
19 filed or the date the member terminated service, whichever is
20 later. Retirement shall be effective on the first day of a
21 month, except for the month of December when retirement on the



1 first or last day of the month shall be allowed. A member whose
2 application for an ordinary disability retirement allowance is
3 approved by the [~~board~~] system while the member is still in
4 service may terminate service and retire at any time following
5 the approval; provided that retirement shall become effective on
6 the first day of the month following the month the applicant
7 terminates employment or goes off the payroll, except for the
8 month of December when retirement on the first or last day of
9 the month shall be allowed."

10 SECTION 10. Section 88-336, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) [~~Upon~~] Under that rules and regulations that the
14 board of trustees may adopt, upon application of a class H
15 member, or the person appointed by the family court as guardian
16 of an incapacitated member, any class H member who has been
17 permanently incapacitated for duty as the natural and proximate
18 result of an accident occurring while in the actual performance
19 of duty at some definite time and place, or as the cumulative
20 result of some occupational hazard, through no wilful negligence



1 on the member's part, may be retired by the [~~board~~] system for
2 service-connected 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 or other entity designated by the
18 board of trustees certifies that the member is
19 incapacitated for the further performance of duty at
20 the time of application and that the member's
21 incapacity is likely to be permanent."



1 2. By amending subsections (c), (d), and (e) to read:

2 "(c) The [~~board~~] system may waive strict compliance with
3 the time limits within which a report of the accident and an
4 application for service-connected disability retirement must be
5 filed with the [~~board~~] system if it is satisfied that the
6 failure to file within the time limited by law was due to
7 ignorance of fact or law, inability, or the fraud,
8 misrepresentation, or deceit of any person, or because the
9 applicant was undergoing treatment for the disability, or was
10 receiving vocational rehabilitation services occasioned by the
11 disability.

12 (d) The [~~board~~] system may determine whether the
13 disability is the result of an accident occurring while in the
14 actual performance of duty at some definite time and place and
15 that the disability was not the result of wilful negligence on
16 the part of the member. The [~~board~~] system may accept as
17 conclusive:

18 (1) The certification made by the head of the agency in
19 which the member is employed; or

20 (2) A finding to this effect by the medical board[-] or
21 other entity designated by the board of trustees.



1 (e) Upon approval by the [~~board,~~] system, the member shall
2 be eligible to receive a service-connected disability retirement
3 benefit after the member has terminated service. Retirement
4 shall be effective on the first day of a month, except for the
5 month of December when retirement on the first or last day of
6 the month shall be allowed."

7 SECTION 11. Section 88-339, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) [~~It~~] Under the rules and regulations that the board
10 of trustees may adopt, in the case of an accidental death as
11 determined by the [~~board~~] system pursuant to section 88-85.5,
12 there shall be paid to the member's designated beneficiary or to
13 the member's estate the amount of the member's accumulated
14 contributions and there shall be paid in lieu of the ordinary
15 death benefit payable under section 88-338 a pension of one-half
16 of the average final compensation of the member:

17 (1) To the surviving spouse or reciprocal beneficiary of
18 the member to continue until the surviving spouse or
19 reciprocal beneficiary remarries, marries, or enters
20 into a new reciprocal beneficiary relationship;



- 1 (2) If there be no surviving spouse or reciprocal
2 beneficiary, or if the surviving spouse or reciprocal
3 beneficiary dies or remarries, marries, or enters into
4 a new reciprocal beneficiary relationship before any
5 child of the deceased member shall have attained the
6 age of eighteen years, then to the deceased member's
7 child or children under that age, divided in a manner
8 as the [~~board~~] system in its discretion shall
9 determine, to continue as a joint and survivor pension
10 of one-half of the deceased member's final
11 compensation until every child dies, or attains that
12 age; or
- 13 (3) If there is no surviving spouse or reciprocal
14 beneficiary and no child under the age of eighteen
15 years surviving the deceased member, then to the
16 deceased member's dependent father or dependent
17 mother, as the deceased member shall have nominated by
18 written designation duly acknowledged and filed with
19 the [~~board~~,] system, or if there is no nomination,
20 then to the deceased member's dependent father or to
21 the deceased member's dependent mother as the [~~board~~,]



1 system, in its discretion, shall direct to continue
2 for life.

3 The pension shall be effective on the first day of the
4 month following the member's death, except for the month of
5 December, when benefits shall be effective on the first or last
6 day of the month."

7 SECTION 12. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 13. This Act shall take effect on July 1, 2050.



Report Title:

Employees' Retirement System

Description:

Extends benefit finalization period for December 31 retirements; changes interest rate for late benefit finalizations; extends deadline for employer payments under section 88-100, Hawaii Revised Statutes; allows delegation of certain disability retirement and service connected death benefit approval functions. (HB1070 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

