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# 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.       The purpose of this bill is to amend and  
2       clarify provisions of chapter 88, Hawaii Revised Statutes, to  
3       maintain the status of the Employees Retirement System as a tax-  
4       qualified plan under section 401(a) of the Internal Revenue  
5       Code.

6       SECTION 2.       Section 88-59(b), Hawaii Revised Statutes,  
7       is amended to read as follows:

8       "§88-59   Acquisition of membership service.

9       (b)   After the filing of the statement, the board shall  
10      verify the service claimed and determine the service credit  
11      allowable. Verified prior service shall be credited. Verified  
12      membership service shall be paid for by the member in any one of  
13      the following methods, at the member's option:

14      (1)   If deductions commence or the lump sum payment is made  
15      prior to July 1, 2020:

16      (A)   By deductions from the member's compensation  
17      pursuant to section 414(h)(2) of the Internal

1 Revenue Code of 1986, as amended, under the  
2 employer pick up plan under section 88-46. An  
3 irrevocable payroll authorization filed by the  
4 member for a period not to exceed sixty months  
5 shall remain in effect until the completion of  
6 the payroll payments or termination of  
7 employment, whichever is earlier. The member may  
8 elect to have:

- 9 (i) Deductions from the member's compensation of  
10 twice the contribution rate provided for in  
11 section 88-45 over a period equal to the  
12 period for which membership service credit  
13 is allowable not to exceed sixty months; or  
14 (ii) Deductions from the member's compensation of  
15 one and one-half times the contribution rate  
16 provided for in section 88-45 over a period  
17 equal to twice the period for which  
18 membership service credit is allowable not  
19 to exceed sixty months; or

- 20 (B) By lump sum payment of contributions computed at  
21 the contribution rate provided for in section 88-  
22 45 applied to the member's monthly rate of  
23 compensation at the time of payment multiplied by

1           the number of months for which membership service  
2           credit is allowable; provided that after July 1,  
3           1982, this method shall not be available to any  
4           new member with fewer than five years of  
5           membership service exclusive of any previous  
6           service acquired under subparagraph (A).

7           (2) If the ~~[deductions commence or the lump sum]~~ payment  
8           is made after June 30, 2020:

9           ~~[(A) By deductions from the member's compensation~~  
10           ~~pursuant to section 414(h)(2) of the Internal~~  
11           ~~Revenue Code of 1986, as amended, under the~~  
12           ~~employer pick up plan under section 88-46. An~~  
13           ~~irrevocable payroll authorization filed by the~~  
14           ~~member for a period not to exceed sixty months~~  
15           ~~shall remain in effect until the completion of~~  
16           ~~the payroll payments or termination of~~  
17           ~~employment, whichever is earlier. The amount of~~  
18           ~~the deductions shall be sufficient to amortize~~  
19           ~~the actuarial cost of the membership service to~~  
20           ~~be credited, together with interest at the~~  
21           ~~investment yield rate assumption in effect as of~~  
22           ~~the date the claim for service credit is made, in~~  
23           ~~level twice monthly payments over the period~~

1 ~~specified in the irrevocable~~  
2 ~~authorization. Service credited shall be~~  
3 ~~proportional on the basis of whole months. For~~  
4 ~~example, if a member elects to acquire twenty~~  
5 ~~four months of service over sixty months and~~  
6 ~~terminates employment after thirty and one half~~  
7 ~~months of deductions, the member will acquire~~  
8 ~~twelve months of membership service credit;~~  
9 ~~(B)]~~ By lump sum payment equal to the actuarial cost  
10 of the membership service to be credited;  
11 provided that the member has at least five years  
12 of membership exclusive of any previous service  
13 acquired under paragraph (1) ~~[or subparagraph~~  
14 ~~(A)]~~ .  
15 The actuarial cost of the membership service to be credited  
16 shall be determined by the actuary for the system based on the  
17 age of the member in full years as of the date the claim for  
18 service credit is made, the investment yield rate assumption in  
19 effect as of the date the claim for service credit is made, the  
20 retirement age eligibility requirements and retirement allowance  
21 provisions applicable to the member, and other actuarial  
22 assumptions adopted by the board in effect as of the date the  
23 claim for service credit is made.

1       The [~~deductions from compensation or lump sum~~] payment  
2 shall be paid to the system and shall be credited to the  
3 member's individual account and become part of the member's  
4 accumulated contributions."

5       SECTION 3.       Section 88-324(b) and (c), Hawaii Revised  
6 Statutes is amended to read as follows:

7       "§88-324   Acquisition of membership service.

8       (b)   Except as otherwise provided in subsection (c), (d),  
9 or (e), verified membership service shall be paid for in any one  
10 of the following methods, at the member's option:

11       (1)   If deductions commence or the lump sum payment is made  
12 prior to July 1, 2020:

13       (A)   By deductions from the member's compensation  
14 pursuant to section 414(h)(2) of the Internal  
15 Revenue Code of 1986, as amended, under the  
16 employer pick up plan under section 88-326. An  
17 irrevocable payroll authorization filed by the  
18 member for a period not to exceed sixty months  
19 shall remain in effect until the completion of  
20 the payroll payments or termination of  
21 employment, whichever is earlier. The amount of  
22 service credit that may be acquired pursuant to  
23 this method shall not exceed the period over

1 which the payroll payments are made. The member  
2 may elect to have:

3 (i) Deductions from the member's compensation of  
4 twice the contribution rate provided for in  
5 section 88-325 over a period equal to the  
6 period for which membership service credit  
7 is allowable not to exceed sixty months; or

8 (ii) Deductions from the member's compensation of  
9 one and one-half times the contribution rate  
10 provided for in section 88-325 over a period  
11 equal to twice the period for which  
12 membership service credit is allowable, not  
13 to exceed sixty months; or

14 (B) By lump sum payment of contributions computed at  
15 the contribution rate provided for in section  
16 88-325 applied to the member's monthly rate of  
17 compensation at the time of payment multiplied by  
18 the number of months for which membership service  
19 credit is allowable.

20 (2) If the ~~[deductions commence or the lump sum]~~ payment  
21 is made after June 30, 2020:

22 ~~(A) By deductions from the member's compensation~~  
23 ~~pursuant to section 414(h)(2) of the Internal~~

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1                   ~~Revenue Code of 1986, as amended, under the~~  
2                   ~~employer pick up plan under section 88-326. An~~  
3                   ~~irrevocable payroll authorization filed by the~~  
4                   ~~member for a period not to exceed sixty months~~  
5                   ~~shall remain in effect until the completion of~~  
6                   ~~the payroll payments or termination of~~  
7                   ~~employment, whichever is earlier. The amount of~~  
8                   ~~the deductions shall be sufficient to amortize~~  
9                   ~~the actuarial cost of the membership service to~~  
10                  ~~be credited, together with interest at the~~  
11                  ~~investment yield rate assumption in effect as of~~  
12                  ~~the date the claim for service credit is made, in~~  
13                  ~~level twice monthly payments over the period~~  
14                  ~~specified in the irrevocable~~  
15                  ~~authorization. Service credited shall be~~  
16                  ~~proportional on the basis of whole months. For~~  
17                  ~~example, if a member elects to acquire twenty-~~  
18                  ~~four months of service over sixty months and~~  
19                  ~~terminates employment after thirty and one-half~~  
20                  ~~months of deductions, the member will acquire~~  
21                  ~~twelve months of membership service credit; or~~  
22                  (B)] By lump sum payment equal to the actuarial cost  
23                  of the membership service to be credited;

1 provided that the member has at least five years  
2 of membership exclusive of any previous service  
3 acquired under paragraph (1) [~~or subparagraph~~  
4 ~~(A)~~].

5 The actuarial cost of the membership service to be credited  
6 shall be determined by the actuary for the system based on  
7 the age of the member in full years as of the date the  
8 claim for service credit is made, the investment yield rate  
9 assumption in effect as of the date the claim for service  
10 credit is made, the retirement age eligibility requirements  
11 and retirement allowance provisions applicable to the  
12 member, and other actuarial assumptions adopted by the  
13 board in effect as of the date the claim for service is  
14 made.

15 The [~~deductions from compensation or~~] lump sum payment  
16 shall be paid to the system and shall be credited to the  
17 member's individual account and become part of the member's  
18 accumulated contributions.

19 Class H membership service credit in addition to any other  
20 service credited to the member shall be allowed for the period  
21 for which the [~~deductions from compensation or~~] lump sum payment  
22 [~~have~~]has been made in accordance with this subsection; provided  
23 that payment shall commence within one year after the system



1 notifies the member that the service claimed has been verified  
2 and that service credit is allowable; provided further that, for  
3 a member who becomes a member after June 30, 2016: membership  
4 service credit for prior service or for service rendered prior  
5 to the member's last becoming a member shall be claimed within  
6 one year after the member enters service; membership service  
7 credit for military service pursuant to section 88-132.5 shall  
8 be claimed within one year after the member meets the  
9 requirements of section 88-132.5(a) or (b); and any other  
10 membership service credit acquired pursuant to this section  
11 shall be claimed within one year after the member becomes  
12 eligible to receive the service credit upon satisfaction of the  
13 requirements of this section.

14 (c) Verified membership service for which a former class A  
15 or class B member in service on June 30, 2006, was eligible as  
16 of June 30, 2006, but failed to claim by the date established by  
17 the board pursuant to section 88-322(b), shall be paid for in  
18 any one of the following methods, at the member's option:

19 (1) If deductions commence or the lump sum payment is made  
20 prior to July 1, 2020:

21 (A) By deductions from the member's compensation  
22 pursuant to section 414(h)(2) of the Internal  
23 Revenue Code of 1986, as amended, under the

1 employer pick up plan under section 88-326. An  
2 irrevocable payroll authorization filed by the  
3 member for a period not to exceed sixty months  
4 shall remain in effect until the completion of  
5 the payroll payments or termination of  
6 employment, whichever is earlier. The amount of  
7 service credit that may be acquired pursuant to  
8 this method shall not exceed the period over  
9 which the payroll payments are made. The member  
10 may elect to have:

11 (i) Deductions from the member's compensation of  
12 twice the contribution rate applicable to  
13 the member under section 88-45 as of June  
14 30, 2006, over a period equal to the period  
15 for which membership service credit is  
16 allowable, not to exceed sixty months; or

17 (ii) Deductions from the member's compensation of  
18 one and one-half times the contribution rate  
19 applicable to the member under section 88-45  
20 as of June 30, 2006, over a period equal to  
21 twice the period for which membership  
22 service credit is allowable, not to exceed  
23 sixty months; or

1 (B) By lump sum payment of contributions computed at  
2 the contribution rate applicable to the member  
3 under section 88-45 as of June 30, 2006, applied  
4 to the member's monthly rate of compensation at  
5 the time of payment, multiplied by the number of  
6 months for which membership service credit is  
7 allowable.

8 (2) If the [~~deductions commence or the lump sum~~] payment  
9 is made after June 30, 2020:

10 [~~(A) By deductions from the member's compensation~~  
11 ~~pursuant to section 414(h)(2) of the Internal~~  
12 ~~Revenue Code of 1986, as amended, under the~~  
13 ~~employer pick up plan under section 88-46. An~~  
14 ~~irrevocable payroll authorization filed by the~~  
15 ~~member for a period not to exceed sixty months~~  
16 ~~shall remain in effect until the completion of~~  
17 ~~the payroll payments or termination of~~  
18 ~~employment, whichever is earlier. The amount of~~  
19 ~~the deductions shall be sufficient to amortize~~  
20 ~~the actuarial cost of the membership service to~~  
21 ~~be credited, together with interest at the~~  
22 ~~investment yield rate assumption in effect as of~~  
23 ~~the date the claim for service credit is made, in~~

1 ~~level twice monthly payments over the period~~  
2 ~~specified in the irrevocable~~  
3 ~~authorization. Service credited shall be~~  
4 ~~proportional on the basis of whole months. For~~  
5 ~~example, if a member elects to acquire twenty-~~  
6 ~~four months over sixty months and terminates~~  
7 ~~employment after thirty and one half months of~~  
8 ~~deductions, the member will acquire twelve months~~  
9 ~~of membership service credit; or~~

10 ~~(B)]~~ By lump sum payment equal to the actuarial cost  
11 of the membership service to be credited;  
12 provided that the member has at least five years  
13 of membership exclusive of any previous service  
14 acquired under paragraph (1) ~~[or subparagraph~~  
15 ~~(A)]~~.

16 The actuarial cost of the membership service to be credited  
17 shall be determined by the actuary for the system based on  
18 the age of the member in full years as of the date the  
19 claim for service credit is made, the investment yield rate  
20 assumption in effect as of the date the claim for service  
21 credit is made, the retirement age eligibility requirements  
22 and retirement allowance provisions applicable to the  
23 member, and other actuarial assumptions adopted by the

1 board in effect as of the date the claim for service is  
2 made.

3 The deductions from compensation or lump sum payment shall be  
4 paid to the system and shall be credited to the member's  
5 individual account and become part of the member's accumulated  
6 contributions.

7 Class H membership service credit in addition to any other  
8 service credited to the member shall be allowed for the period  
9 for which the deductions from compensation or lump sum payment  
10 have been made in accordance with this subsection; provided that  
11 payment shall commence within one year after the system notifies  
12 the member that the service claimed has been verified and that  
13 service credit is allowable; and provided further that, for a  
14 member who becomes a member after June 30, 2016: membership  
15 service credit for prior service or for service rendered prior  
16 to the member's last becoming a member shall be claimed within  
17 one year after the member enters service; membership service  
18 credit for military service pursuant to section 88-132.5 shall  
19 be claimed within one year after the member meets the  
20 requirements of section 88-132.5(a); and any other membership  
21 service credit acquired pursuant to this section shall be  
22 claimed within one year after the member becomes eligible to

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1 receive the service credit upon satisfaction of the requirements  
2 of this section."

3 SECTION 4. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: \_\_\_\_\_



6

BY REQUEST

JAN 22 2018

# H.B. NO. 2340

**Report Title:**

Employees' Retirement System; acquisition of retirement service credit.

**Description:**

Amends and clarifies the acquisition of service provisions to maintain the tax-qualified status of the Employees' Retirement System.

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

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

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

PURPOSE: To amend and clarify provisions of chapter 88, Hawaii Revised Statutes, to maintain the status of the Employees' Retirement System as a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code.

MEANS: Amend sections 88-59(b) and 88-324(b) and (c), Hawaii Revised Statutes.

JUSTIFICATION: The Employees' Retirement System of the State of Hawaii ("ERS") is intended to be a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code. The following amendments to chapter 88, Hawaii Revised Statutes, are to correct the method of purchasing additional membership service credit by pre-tax contributions to maintain the tax-qualified status of the system.

Act 86, Session Laws of Hawaii 2015, prospectively changed the cost to purchase membership service to be based on an actuarially neutral cost calculation. This delayed implementation to July 1, 2020, was to allow the ERS to obtain confirmation from the Internal Revenue Service ("IRS") that the change in the calculation of purchase cost amount would not be considered a change to the employer pick up plan previously approved by the IRS. However, the IRS no longer provides guidance in the form of private letter rulings for public plan provision approvals. As the 2015 change in purchase cost allows for greater pre-tax retirement contributions than previously approved by the IRS, this amendment is required to correct the employer pick up plan provisions for Class A and Class H members for purchases after June 30, 2020.



Impact on the public: None.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.