

# S.B. NO. 3099

JAN 24 2024

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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 legislature finds that employees who became  
2 members of the employees' retirement system before July 1, 2012,  
3 commonly referred to as "Tier 1 members", are required to have a  
4 minimum of five years of credited service to be eligible for  
5 vested benefit status, which, among other things, permits a  
6 member to receive a retirement allowance upon service  
7 retirement. By contrast, employees who become members after  
8 June 30, 2012, commonly referred to as "Tier 2 members", are  
9 required to have a minimum of ten years of credited service to  
10 be eligible for vested benefit status.

11           Although the two-tier member structure has assisted the  
12 employees' retirement system in its efforts to achieve full  
13 funding of its actuarial accrued liability, actuaries have  
14 determined that reducing the minimum number of years of credited  
15 service Tier 2 members must have to be eligible for vested  
16 benefit status from ten years to five years to match Tier 1  
17 members would increase the projected full funding period only by

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1 an estimated four additional months and would not require an  
2 increase in contribution rates.

3 The legislature also finds that reducing the minimum number  
4 of years of credited service Tier 2 members must have to be  
5 eligible for vested benefit status from ten years to five years  
6 would help State and county employers with the recruitment and  
7 retention of qualified employees. Reducing employee turnover  
8 and retaining employees on the job longer may also help to  
9 reduce employer costs. The legislature further finds that these  
10 benefits outweigh the impacts on the employees' retirement  
11 systems' unfunded liability and projected full funding period.

12 Notwithstanding section 88-99, Hawaii Revised Statutes, the  
13 purpose of this Act is to reduce the minimum number of years of  
14 credited service qualified Tier 2 members must have to be  
15 eligible for vested benefit status for service retirement  
16 allowance purposes from ten years to five years.

17 SECTION 2. Section 88-62, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19 "(b) ~~[For]~~ Notwithstanding section 88-99, for members who  
20 become members after June 30, 2012:

21 (1) If a former member who has fewer than ten years of  
22 credited service and who has been out of service for a

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1 period of four full calendar years or more after the  
2 year in which the former member left service, or if a  
3 former member who withdrew the former member's  
4 accumulated contributions returns to service, the  
5 former member shall become a member in the same manner  
6 and under the same conditions as anyone first entering  
7 service; however, the former member may obtain  
8 membership service credit in the manner provided by  
9 applicable law for credited service that was forfeited  
10 by the member upon termination of the member's  
11 previous membership. If the member did not withdraw  
12 the former member's accumulated contributions prior to  
13 the former member's return to service, the accumulated  
14 contributions shall be returned to the member as part  
15 of the process of enrolling the member in the system  
16 if the member's accumulated contributions are \$1,000  
17 or less at the time of distribution. If the  
18 accumulated contributions for the service the member  
19 had when the member previously terminated employment  
20 are greater than \$1,000 and the member does not make  
21 written application, prior to or contemporaneously  
22 with the member's return to service, for return of the

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1 accumulated contributions, the member may not withdraw  
2 the member's accumulated contributions, except as  
3 provided by section 88-96 or 88-341, until the member  
4 retires or attains age sixty-two. The member shall  
5 not be entitled to service credit by reason of the  
6 system's retention of the member's accumulated  
7 contributions for the service the member had when the  
8 member previously terminated employment. To be  
9 eligible for any benefit, the member shall fulfill the  
10 membership service requirements for the benefit  
11 through membership service after again becoming a  
12 member, in addition to meeting any other eligibility  
13 requirement established for the benefit; provided that  
14 the membership service requirement shall be exclusive  
15 of any former service acquired in accordance with  
16 section 88-59 or any other section in part II, VII, or  
17 VIII;

18 (2) If a former member with fewer than ten years of  
19 credited service and who did not withdraw the former  
20 member's accumulated contributions returns to service  
21 within four full calendar years after the year in  
22 which the former member left service, the former

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1 member shall again become a member in the same manner  
2 and under the same conditions as anyone first entering  
3 service, except that the member shall be credited with  
4 service credit for the service the member had when the  
5 member terminated employment:

6 (A) If the member returns to service as a class A or  
7 class B member, the member's new and previous  
8 accumulated contributions shall be combined; or

9 (B) If the member returns to service as a class H  
10 member, section 88-321(b) shall apply; ~~and~~

11 (3) If a former member ~~[with ten or more years of credited~~  
12 ~~service who did not withdraw the former member's~~  
13 ~~contributions]~~ who has vested benefit status as  
14 provided in section 88-96(b) returns to service, the  
15 former member's status shall be in accordance with the  
16 provisions described in section 88-97[-]; and

17 (4) If a former member who has fewer than five years of  
18 credited service and who has been out of service for a  
19 period of four full calendar years or more after the  
20 year in which the former member left service, or if a  
21 former member withdrew the former member's accumulated  
22 contributions returns to service and remains in

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1 service as of July 1, 2025 or returns to service after  
2 June 30, 2025, the former member shall become a member  
3 in the same manner and under the same conditions as  
4 anyone first entering service; provided that the  
5 former member may obtain membership service credit in  
6 the manner provided by applicable law for credited  
7 service that was forfeited by the member upon  
8 termination of the member's previous membership. If  
9 the member did not withdraw the former member's  
10 accumulated contributions prior to the former member's  
11 return to service, the accumulated contributions shall  
12 be returned to the member as part of the process of  
13 enrolling the member in the system if the member's  
14 accumulated contributions are \$1,000 or less at the  
15 time of distribution. If the accumulated  
16 contributions for the service the member had when the  
17 member previously terminated employment are greater  
18 than \$1,000 and the member does not make written  
19 application, prior to or contemporaneously with the  
20 member's return to service, for return of the  
21 accumulated contributions, the member may not withdraw  
22 the member's accumulated contributions, except as

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1 provided by section 88-96 or 88-341, until the member  
2 retires or attains age sixty-two. The member shall  
3 not be entitled to service credit by reason of the  
4 system's retention of the member's accumulated  
5 contributions for the service the member had when the  
6 member previously terminated employment. To be  
7 eligible for any benefit, the member shall fulfill the  
8 membership service requirements for the benefit  
9 through membership service after again becoming a  
10 member, in addition to meeting any other eligibility  
11 requirement established for the benefit; provided that  
12 the membership service requirement shall be exclusive  
13 of any former service acquired in accordance with  
14 section 88-59 or any other section in part II, VII, or  
15 VIII; and

16 (5) If a former member who has fewer than five years of  
17 credited service and who did not withdraw the former  
18 member's accumulated contributions returns to service  
19 and remains in service as of July 1, 2025 or returns  
20 to service after June 30, 2025, and who returns to  
21 service within four full calendar years after the year  
22 in which the former member left service, the former

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1 member shall again become a member in the same manner  
2 and under the same conditions as anyone first entering  
3 service, except that the member shall be credited with  
4 service credit for the service the member had when the  
5 member terminated employment:

6 (A) If the member returns to service as a class A or  
7 class B member, the member's new and previous  
8 accumulated contributions shall be combined; or

9 (B) If the member returns to service as a class H  
10 member, section 88-321(b) shall apply."

11 SECTION 3. Section 88-73, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsections (a) and (b) to read:

14 "(a) [~~Any~~] Notwithstanding section 88-99, any member who:

15 (1) Became a member before July 1, 2012, and has at least  
16 five years of credited service and has attained age  
17 fifty-five;

18 (2) Became a member before July 1, 2012, and has at least  
19 twenty-five years of credited service;

20 (3) Has at least ten years of credited service, which  
21 includes service as a judge before July 1, 1999, an  
22 elective officer, or a legislative officer;

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1 (4) Becomes a member after June 30, 2012, and has at least  
2 ten years of credited service and has attained age  
3 sixty; [~~or~~]

4 (5) Becomes a member after June 30, 2012, and has at least  
5 twenty-five years of credited service and has attained  
6 age fifty-five [~~7~~]; or

7 (6) Becomes a member after June 30, 2012, and who is in  
8 service as of July 1, 2025, or who returns to service  
9 or becomes a member after June 30, 2025, and has at  
10 least five years of credited service and has attained  
11 the age of sixty,

12 shall become eligible to receive a retirement allowance after  
13 the member has terminated service.

14 (b) Any member who first earned credited service as a  
15 judge after June 30, 1999, but before July 1, 2012, and who has  
16 at least five years of credited service and has attained age  
17 fifty-five or has at least twenty-five years of credited service  
18 shall become eligible to receive a retirement allowance after  
19 the member has terminated service. Any member who first earned  
20 credited service as a judge after June 30, 2012, and has at  
21 least ten years of credited service and has attained age sixty,  
22 or has at least twenty-five years of credited service and has

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1 attained age fifty-five, shall be eligible to receive a  
2 retirement allowance after the member has terminated service.  
3 Any member who first earned credited service as a judge after  
4 June 30, 2012, and who is in service as of July 1, 2025, or  
5 thereafter, and has at least five years of credited service and  
6 has attained age sixty, shall be eligible to receive a  
7 retirement allowance after the member has terminated service."

8 2. By amending subsection (f) to read:

9 "(f) A member's right to the member's accrued retirement  
10 benefit is nonforfeitable upon the attainment of normal  
11 retirement age and the completion of the requisite years of  
12 credited service.

13 For the purpose of this subsection:

14 "Normal retirement age" means age sixty-five.

15 "Requisite years of credited service" means five years for  
16 class A and B members who became members before July 1, 2012[7];  
17 [and] ten years for class A and B members who became members  
18 after June 30, 2012[-]; and five years for class A and B members  
19 who became members after June 30, 2012 and who are in service as  
20 of July 1, 2025 or who returned to service or became a member  
21 after June 30, 2025."

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1 SECTION 4. Section 88-96, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:  
3 "(a) Any member who ceases to be an employee and who  
4 became a member before July 1, 2012, and has fewer than five  
5 years of credited service, excluding unused sick leave[7]; or  
6 who becomes a member after June 30, 2012, and has fewer than ten  
7 years of credited service, excluding unused sick leave[7]; or  
8 who becomes a member after June 30, 2012, and who is in service  
9 as of July 1, 2025 or who returns to service after June 30,  
10 2025, and has fewer than five years of credited service,  
11 excluding unused sick leave; or who becomes a member after June  
12 30, 2025 and has fewer than five years of credited service,  
13 excluding unused sick leave, shall, upon application to the  
14 board, be paid all of the member's accumulated contributions and  
15 the member's membership shall thereupon terminate and all  
16 credited service shall be forfeited; provided that a member  
17 shall not be paid the member's accumulated contributions:  
18 (1) If the member becomes an employee again within fifteen  
19 calendar days from the date the member ceased to be an  
20 employee; or

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1           (2) If, at the time the application for return of  
2           accumulated contributions is received by the board,  
3           the member has become an employee again.

4           Regular interest shall be credited to the former employee's  
5           account until the former employee's accumulated contributions  
6           are returned to the former employee; provided that the former  
7           employee's membership shall not continue after the fourth full  
8           year following the calendar year in which the individual's  
9           employment terminates. Upon termination of the former  
10          employee's membership, the former employee's credited service  
11          shall be forfeited and, if the former employee's accumulated  
12          contributions are \$1,000 or less at the time of distribution,  
13          the system shall return the former employee's contributions to  
14          the former employee. If the former employee does not become an  
15          employee again and if the former employee's accumulated  
16          contributions have not been withdrawn by the former employee or  
17          previously returned by the system to the former employee, the  
18          system shall return the former employee's accumulated  
19          contributions to the former employee as soon as possible after  
20          the later of: (A) the former employee attaining age sixty-two;  
21          or (B) the termination of the former employee's membership.

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1           (b) Any member who ceases to be an employee and who became  
2 a member before July 1, 2012, and has more than five years of  
3 credited service, excluding unused sick leave[7]; or who becomes  
4 a member after June 30, 2012, and has more than ten years of  
5 credited service, excluding unused sick leave[7]; or who becomes  
6 a member after June 30, 2012, and who is in service as of July  
7 1, 2025 or who returns to service after June 30, 2025, and has  
8 more than five years of credited service, excluding unused sick  
9 leave; or who becomes a member after June 30, 2025 and has more  
10 than five years of credited service, excluding unused sick  
11 leave, shall, upon application to the board, be paid all of the  
12 member's accumulated contributions and thereupon the former  
13 employee's membership shall terminate and all credited service  
14 shall be forfeited; provided that a member shall not be paid the  
15 member's accumulated contributions:

16           (1) If the member becomes an employee again within fifteen  
17 calendar days from the date the member ceased to be an  
18 employee; or

19           (2) If, at the time the application for return of  
20 accumulated contributions is received by the board,  
21 the member has become an employee again.

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1           If the contributions are not withdrawn by the former  
2 employee within four calendar years following the calendar year  
3 in which the former employee's employment terminates, the former  
4 employee shall have established vested benefit status and shall  
5 be eligible for the service retirement benefit in effect at the  
6 time of the former employee's retirement, payable in accordance  
7 with this chapter; provided that if the former employee  
8 withdraws the former employee's accumulated contributions, the  
9 former employee's vested benefit status shall terminate and all  
10 credited service shall be forfeited."

11           SECTION 5. Section 88-331, Hawaii Revised Statutes, is  
12 amended as follows:

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

14           "(a) [A] Notwithstanding section 88-99, a class H member  
15 who:

16           (1) Became a member before July 1, 2012, has at least five  
17 years of credited service, and has attained age sixty-  
18 two;

19           (2) Became a member before July 1, 2012, has at least  
20 thirty years of credited service, and has attained the  
21 age of fifty-five; [~~or~~]

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1 (3) Becomes a member after June 30, 2012, has at least ten  
2 years of credited service, and has attained age sixty-  
3 five; [~~or~~]

4 (4) Becomes a member after June 30, 2012, has at least  
5 thirty years of credited service, and has attained age  
6 sixty[~~7~~]; or

7 (5) Becomes a member after June 30, 2012, and who is in  
8 service as of July 1, 2025, or who returns to service  
9 or becomes a member after June 30, 2025, and has at  
10 least five years of credited service and has attained  
11 the age of sixty-five,

12 shall become eligible to receive a retirement allowance after  
13 the member has terminated service."

14 2. By amending subsection (f) to read:

15 "(f) A member's right to the member's accrued retirement  
16 benefit is nonforfeitable upon the attainment of normal  
17 retirement age and the completion of the requisite years of  
18 credited service.

19 For the purpose of this subsection:

20 "Normal retirement age" means age sixty-five.

21 "Requisite years of credited service" means five years for  
22 class H members who became members before July 1, 2012[~~7~~and]; i

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1 ten years for class H members who became members after June 30,  
2 2012[-]; and five years for class H members who became members  
3 after June 30, 2012, and who are in service as of July 1, 2025,  
4 or who returned to service or became a member after June 30,  
5 2025."

6 SECTION 6. Section 88-338, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Upon receipt by the system of proper proof of a class  
9 H member's death occurring in service or while on authorized  
10 leave without pay and if no pension is payable under section 88-  
11 339, there shall be paid to the member's designated beneficiary  
12 an ordinary death benefit as follows:

13 (1) The member's accumulated contributions shall be paid  
14 to the member's designated beneficiary if:

15 (A) The member became a member before July 1, 2012,  
16 and had less than five years of credited service  
17 at the time of death; [~~or~~]

18 (B) The member became a member after June 30, 2012,  
19 and had less than ten years of credited service  
20 at the time of death; or

21 (C) The member became a member after June 30, 2012,  
22 and was in service as of July 1, 2025, or who

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1                   returned to service or became a member after June  
2                   30, 2025, and had less than five years of  
3                   credited service at the time of death;

4           (2) An amount equal to the member's hypothetical account  
5           balance shall be paid to the member's designated  
6           beneficiary if:

7           (A) The member became a member before July 1, 2012,  
8           and had five or more years of credited service at  
9           the time of death; ~~[or]~~

10          (B) The member became a member after June 30, 2012,  
11          and had ten or more years of credited service at  
12          the time of death; or

13          (C) The member became a member after June 30, 2012,  
14          and was in service as of July 1, 2025, or who  
15          returned to service or became a member after June  
16          30, 2025, and had five or more years of credited  
17          service at the time of death;

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

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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 88-332, unreduced  
7 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 7. Section 88-341, Hawaii Revised Statutes, is  
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) Any class H member who ceases to be an employee and  
22 who became a member before July 1, 2012, and has fewer than five

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1 years of credited service, excluding unused sick leave[7]; or  
2 who becomes a member after June 30, 2012, and has fewer than ten  
3 years of credited service, excluding unused sick leave[7]; or  
4 who becomes a member after June 30, 2012, and who is in service  
5 as of July 1, 2025, or who returns to service or becomes a  
6 member after June 30, 2025, and has fewer than five years of  
7 credited service, excluding unused sick leave, shall, upon  
8 application to the board, be paid all of the former employee's  
9 accumulated contributions, and the former employee's membership  
10 shall thereupon terminate and all credited service shall be  
11 forfeited; provided that an individual shall not be paid the  
12 individual's accumulated contributions if either:

- 13 (1) The individual becomes an employee again within  
14 fifteen calendar days from the date the individual  
15 ceased to be an employee; or  
16 (2) At the time the application for return of accumulated  
17 contributions is received by the board, the individual  
18 has become an employee again.

19 Regular interest shall be credited to the former employee's  
20 account until the former employee's accumulated contributions  
21 are withdrawn; provided that the former employee's membership  
22 shall not continue after the fourth full year following the

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1 calendar year in which the individual's employment terminates.  
2 If the former employee does not become an employee again and has  
3 not withdrawn the former employee's accumulated contributions,  
4 the system shall return the former employee's accumulated  
5 contributions to the former employee as soon as possible after  
6 the later of: (A) the former employee attaining age sixty-two;  
7 or (B) the termination of the former employee's membership.  
8 (b) Any class H member who ceases to be an employee and  
9 who became a member before July 1, 2012, and has more than five  
10 years of credited service, excluding unused sick leave[7]; or  
11 who becomes a member after June 30, 2012, and has more than ten  
12 years of credited service, excluding unused sick leave[7]; or  
13 who becomes a member after June 30, 2012, and who is in service  
14 as of July 1, 2025 or who returns to service or becomes a member  
15 after June 30, 2025, and has more than five years of credited  
16 service, excluding unused sick leave, shall, upon application to  
17 the board, be paid an amount equal to the former employee's  
18 hypothetical account balance and the former employee's  
19 membership shall thereupon terminate and all credited service  
20 shall be forfeited; provided that the individual shall not be  
21 paid the individual's hypothetical account balance if either:

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1           (1) The individual becomes an employee again within  
2           fifteen calendar days from the date the individual  
3           ceased to be an employee; or

4           (2) At the time the application for payment of the  
5           individual's hypothetical account balance is received  
6           by the board, the individual has become an employee  
7           again.

8           If the contributions are not withdrawn by the former  
9           employee after the individual's employment terminates, the  
10          former employee shall have vested benefit status and shall be  
11          eligible for the service retirement benefit in effect at the  
12          time of the former employee's retirement, payable in accordance  
13          with this chapter."

14          SECTION 8. There is appropriated out of the general  
15          revenues of the State of Hawaii the sum of \$9,800,000 or so much  
16          thereof as may be necessary for fiscal year 2024-2025 for  
17          investments of the employees' retirement system.

18          The sum appropriated shall be expended by the employees'  
19          retirement system for the purposes of this Act.

20          SECTION 9. This Act does not affect the rights, duties,  
21          and obligations that matured or were vested, or proceedings that  
22          were begun, before its effective date, including but not limited

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1 to, any membership that was terminated, credited service that  
2 was forfeited, retirement that was finalized, or benefits which  
3 were paid.

4 SECTION 10. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 11. This Act shall take effect upon its approval;  
7 provided that section 8 shall take effect on July 1, 2024.

8

9

INTRODUCED BY: 

10

BY REQUEST

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**Report Title:**

ERS; Credited Service; Benefits

**Description:**

Reduces the minimum number of years of credited service qualified Tier 2 Employees' Retirement System members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years. Appropriates funds for investments of the ERS.

*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: Governor

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

PURPOSE: To reduce the minimum number of years of credited service qualified Tier 2 Employees' Retirement System (ERS) members must have to be eligible for vested benefits status for service retirement allowance purposes from ten years to five years. To appropriate funds for investments of the ERS.

MEANS: Amend sections 88-62(b); 88-73(a), (b), and (f); 88-96(a) and (b); 88-331(a) and (f); 88-338(a); and 88-341(a) and (b), Hawaii Revised Statutes. Appropriate funds.

JUSTIFICATION: State and county governments in Hawaii are experiencing the tough challenges and difficult impacts of job vacancies. Public sector vacancies hamper government's ability to serve the public and impede economic growth.

The number of years to attain credited service to be eligible for vested benefit status for service retirement differs significantly between Tier 1 and Tier 2 ERS members. Reducing the number of years of credited service for qualified Tier 2 ERS members for vested benefits status to match that of Tier 1 ERS members would assist State and county employers in recruiting and retaining qualified employees. Reducing employee turnover and retaining employees on the job longer would also help to reduce employer costs, as well as attract individuals to public service.

Impact on the public: Attracting individuals to State and county positions, and recruiting and retaining State and county employees on the job longer would enhance public service and lessen the need

for public assistance as more individuals are employed.

Impact on the department and other agencies:  
None.

GENERAL FUND: \$9,800,000.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BUF-141.

OTHER AFFECTED  
AGENCIES: Department of Budget and Finance -  
Employees' Retirement System.

EFFECTIVE DATE: Upon approval, except for Section 8, which  
takes effect on July 1, 2024.