

JAN 18 2024

A BILL FOR AN ACT

RELATING TO VESTING IN THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. The legislature finds that the changes it made
2 to the employees' retirement system benefits and contributions
3 in 2011 and 2012, which affected employees who became members of
4 the employees' retirement system after June 30, 2012 (tier 2
5 employees), have positively affected the employees' retirement
6 system's funding period. These changes included:

- 7 (1) Increasing the employee contribution rate;
- 8 (2) Increasing the age at which an employee may retire;
- 9 (3) Increasing the number of years over which the average
10 final compensation is calculated;
- 11 (4) Decreasing the multiplier;
- 12 (5) Decreasing the post-retirement increase; and
- 13 (6) Decreasing the interest rate on contributions.

14 In addition, some non-base pay items, including overtime, are
15 excluded from the pension benefit calculation for tier 2
16 employees.



1 While the forgoing changes were impactful, the legislature
2 also finds that the change to increase the vesting period from
3 five years to ten years for tier 2 employees has had less of an
4 impact. The employees' retirement system actuaries have
5 determined that returning to a five-year vesting period is
6 expected to increase the funding period by only four months and
7 would not result in an increase in the contribution rates.

8 The legislature also finds that Hawaii's state and county
9 governments are experiencing serious difficulties in recruiting
10 employees. The legislature finds that restoring the vesting
11 period to five years would have a widespread effect in
12 attracting new employees without adversely affecting the
13 employees' retirement system's funding status or increasing the
14 employer contribution rate.

15 Accordingly, the purpose of this Act is to amend the
16 vesting period to five years for tier 2 employees who are in
17 service on the effective date of the Act or return to service
18 after the effective date of the Act, and for employees who
19 become a member on or after the effective date of the Act. Only
20 the vesting period will change. All other requirements and
21 benefits for tier 2 employees will remain the same.



1 SECTION 2. Section 88-62, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§88-62 Return to service of a former member.** (a) For
4 members who became members before July 1, 2012:

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



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

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



1 be exclusive of any former service acquired in
2 accordance with section 88-59 or any other section in
3 part II, VII, or VIII;

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

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

17 (B) If the member returns to service after June 30,
18 2006, as a class H member, section 88-321(b)
19 shall apply; and

20 (3) If a former member with five or more years of credited
21 service who did not withdraw the former member's



1 contributions returns to service, the former member's
2 status shall be in accordance with the provisions
3 described in section 88-97.

4 (b) For members who become members after June 30, 2012[+],
5 return to service before July 1, 2025, and are not in service on
6 or after July 1, 2025:

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



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



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

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

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

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



1 (3) If a former member with ten or more years of credited
2 service who did not withdraw the former member's
3 contributions returns to service, the former member's
4 status shall be in accordance with the provisions
5 described in section 88-97.

6 (c) For members who become members after June 30, 2012,
7 and return to service after June 30, 2025:

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



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



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1 service after again becoming a member, in addition to
2 meeting any other eligibility requirement established
3 for the benefit; provided that the membership service
4 requirement shall be exclusive of any former service
5 acquired under section 88-59 or any other section in
6 part II, VII, or VIII;

7 (2) If a former member with fewer than five years of
8 credited service and who did not withdraw the former
9 member's accumulated contributions returns to service
10 within four full calendar years after the year in
11 which the former member left service, the former
12 member shall again become a member in the same manner
13 and under the same conditions as anyone first entering
14 service; provided that the member shall be credited
15 with service credit for the service the member had
16 when the member terminated employment; provided
17 further that:

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



- 1 (B) If the member returns to service as a class H
2 member, section 88-321(b) shall apply; and
3 (3) If a former member with five or more years of credited
4 service who did not withdraw the former member's
5 contributions returns to service, the former member's
6 status shall be under section 88-97."

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

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

10 "(a) Any member who:

- 11 (1) Became a member before July 1, 2012, and has at least
12 five years of credited service and has attained age
13 fifty-five;
14 (2) Became a member before July 1, 2012, and has at least
15 twenty-five years of credited service;
16 (3) Has at least ten years of credited service, which
17 includes service as a judge before July 1, 1999, an
18 elective officer, or a legislative officer;
19 (4) Becomes a member after June 30, 2012, [~~and has at~~
20 ~~least ten~~] has attained age sixty, and has at least:



1 (A) Ten years of credited service [~~and has attained~~
2 ~~age sixty~~]; or

3 (B) Five years of credited service and:

4 (i) Is in service on July 1, 2025;

5 (ii) Returns to service on or after July 1, 2025;

6 or

7 (iii) Becomes a member after July 1, 2025; or

8 (5) Becomes a member after June 30, 2012, and has at least
9 twenty-five years of credited service and has attained
10 age fifty-five,

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

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



- 1 (1) Ten years of credited service and has attained age
2 sixty [~~or has at least twenty five~~];
3 (2) Five years of credited service, attained age sixty,
4 and:
5 (A) Is in service on July 1, 2025;
6 (B) Returns to service on or after July 1, 2025; or
7 (C) Becomes a member after July 1, 2025; or
8 (3) Twenty-five years of credited service and has attained
9 age fifty-five,

10 shall be eligible to receive a retirement allowance after the
11 member has terminated service."

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

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

17 For the purpose of this subsection:

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

19 "Requisite years of credited service" means [~~five~~]:

- 20 (1) Five years for class A and B members who became
21 members before July 1, 2012 [~~, and ten~~];



- 1 (2) Ten years for class A and B members who became members
- 2 after June 30, 2012[-]; and
- 3 (3) Five years for members who became members after
- 4 June 30, 2012, and:
- 5 (A) Are in service on July 1, 2025;
- 6 (B) Return to service on or after July 1, 2025; or
- 7 (C) Become a member after July 1, 2025."

8 SECTION 4. Section 88-96, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) Any member who ceases to be an employee and who
11 became a member before July 1, 2012, who is in service on
12 July 1, 2025, or who returns to service or becomes a member
13 after June 30, 2025, and has fewer than five years of credited
14 service, excluding unused sick leave, or who becomes a member
15 after June 30, 2012, and before July 1, 2025, and has fewer than
16 ten years of credited service, excluding sick leave, shall, upon
17 application to the board, be paid all of the member's
18 accumulated contributions and the member's membership shall
19 thereupon terminate and all credited service shall be forfeited;
20 provided that a member shall not be paid the member's
21 accumulated contributions:



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

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

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



1 contributions to the former employee as soon as possible after
2 the later of: (A) the former employee attaining age sixty-two;
3 or (B) the termination of the former employee's membership.

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

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



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

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

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

17 "(a) A class H member who:

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



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

4 (3) Becomes a member after June 30, 2012, has at least
5 [ten]:

6 (A) Ten years of credited service, and has attained
7 age sixty-five; or

8 (B) Five years of credited service, attained age
9 sixty, and:

10 (i) Is in service on July 1, 2025;

11 (ii) Returns to service on or after July 1, 2025;

12 or

13 (iii) Becomes a member after July 1, 2025; or

14 (4) Becomes a member after June 30, 2012, has at least
15 thirty years of credited service, and has attained age
16 sixty,

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

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

20 "(f) A member's right to the member's accrued retirement
21 benefit is nonforfeitable upon the attainment of normal



1 retirement age and the completion of the requisite years of
2 credited service.

3 For the purpose of this subsection:

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

5 "Requisite years of credited service" means [~~five~~]:

6 (1) Five years for class H members who became members
7 before July 1, 2012 [~~7~~ and ~~ten~~];

8 (2) Ten years for class H members who became members after
9 June 30, 2012 [~~7~~]; and

10 (3) Five years, for members who became members after
11 June 30, 2012, and

12 (A) Are in service on July 1, 2025;

13 (B) Return to service on or after July 1, 2025; or

14 (C) Become a member after July 1, 2025."

15 SECTION 6. Section 88-341, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Any class H member who ceases to be an employee and
18 who became a member before July 1, 2012, who is in service on
19 July 1, 2025, or who returns to service or becomes a member
20 after June 30, 2025, and has fewer than five years of credited
21 service, excluding unused sick leave, or who becomes a member



1 after June 30, 2012, and before July 1, 2025, and who is not in
2 service on July 1, 2025, and who does not return to service
3 after June 30, 2025, and has fewer than ten years of credited
4 service, excluding unused sick leave, shall, upon application to
5 the board, be paid all of the former employee's accumulated
6 contributions, and the former employee's membership shall
7 thereupon terminate and all credited service shall be forfeited;
8 provided that an individual shall not be paid the individual's
9 accumulated contributions if either:

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

13 (2) At the time the application for return of accumulated
14 contributions is received by the board, the individual
15 has become an employee again.

16 Regular interest shall be credited to the former employee's
17 account until the former employee's accumulated contributions
18 are withdrawn; provided that the former employee's membership
19 shall not continue after the fourth full year following the
20 calendar year in which the individual's employment terminates.
21 If the former employee does not become an employee again and has

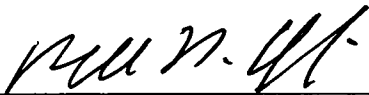


1 not withdrawn the former employee's accumulated contributions,
2 the system shall return the former employee's accumulated
3 contributions to the former employee as soon as possible after
4 the later of: (A) the former employee attaining age sixty-two;
5 or (B) the termination of the former employee's membership."

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

8 SECTION 8. This Act shall take effect, on July 1, 2025.

9

INTRODUCED BY: 
By Request



S.B. NO. 2220

Report Title:

City and County of Honolulu Package; ERS; Retirement; Government Employees

Description:

Amends the vesting period to 5 years for tier 2 government employees of the Employees' Retirement System who are in service on the effective date of the Act or return to service after the effective date of the Act, and for employees who become a member on or after the effective date of the Act.

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

