

A Bill for an Act Relating to the Employees' Retirement System of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Parts I and II of chapter 6, Revised Laws of Hawaii 1955, as amended, are hereby further amended to read as follows:

"PART I. GENERAL PROVISIONS

A. MISCELLANEOUS

Section 6-1. Restrictions. The provisions of this section shall be applicable to every pension and to every recipient or beneficiary thereof, granted or provided for by any special act of the Legislature (other than benefits, or the recipients thereof, payable to beneficiaries or retirants of the employees' retirement system under Part II) whether the pension be payable by the State or by any county, or by any board, commission, bureau, department or other

agency thereof:

(1) No recipient or beneficiary shall be permitted to draw any pension, or any portion thereof, in excess of \$50 per month, while he is holding any salaried position or office in, under or by authority of the United States, the State, or any political subdivision thereof. This paragraph shall not apply to any recipient or beneficiary who is elected to the Legislature or to the council of any county.

(2) If the recipient or beneficiary is a widow, the pension so granted to her shall cease when she remarries.

(3) Any pension payable to any minor shall cease when the minor reaches the age of eighteen years.

(4) If any male recipient or beneficiary of a pension, having a wife at the time the pension was first granted to him dies, then his wife, as long as she remains a widow, shall be paid sixty per cent of the amount of the pension payable to the male beneficiary.

“Section 6-2. Minimum pension. Every pension of less than \$30 per month payable under or pursuant to any law of the State by the State or by any county or independent public board or commission, other than benefits payable to members of the employees’ retirement system or to the dependents or beneficiaries of such members under Part II, shall be increased to \$30 per month, any provision in any other law to the contrary notwithstanding; provided that where the dependents of a deceased pensioner are receiving pensions by reason of his death, the total only of all amounts paid to the dependents shall be so increased.

“The council of each county, and each independent board or commission affected, shall appropriate the funds necessary to pay the increases hereby allowed of pensions payable by their respective counties, boards and commissions. Sufficient funds to cover these increases hereby allowed of pensions payable by the State are hereby appropriated from the general revenues of the State not otherwise appropriated, and the State comptroller shall issue warrants to pay these increases.

“Section 6-3. Payment on death of pensioner. Whenever any person receiving a pension from the State or from any county thereof dies, the amount next payable shall be prorated from the last payment date up to and including the date of death. The sum so prorated shall be paid to such person as may have been designated by the pensioner during his lifetime in a statement filed with the officer charged with payment of the pension, or, if no such designation has been made and filed, then the amount so due shall be paid to the executor or administrator of the estate of the pensioner.

“Section 6-4. Medical aid, etc., when free. Every recipient of any retirement allowance or pension payable by the State or by any county or by any other governmental body or agency created by or under the laws of the State who is actually and solely dependent upon his retirement allowance or pension for his maintenance and support or whose total income in whatever form or from whatever source received, including but not limited to, his retirement al-

lowance or pension and any income of his spouse is less than \$2,400 a year shall, for himself and his spouse, be entitled to free medical treatment from any government physician employed by the State or any county and to free hospitalization at any state hospital or at a hospital where county patients are treated at county expenses in the county wherein he resides.

“Whenever a retirant or pensioner having a spouse dies, then the spouse, as long as he or she remains single, shall be eligible for benefits under this section.

“**Section 6-5. List of pensioners, who shall provide.** The proper department of each county shall determine who is entitled to benefits under section 6-4 and shall provide to any government physician employed by the State or any county, and any county hospital or a hospital where county patients are treated at county expense in the county wherein the pensioner or beneficiary resides, a current list of pensioners and their spouses who are entitled to benefits under section 6-4. Upon request, the State retirement system shall provide to the proper departments of each county such information as may be required to administer section 6-4.

“**Section 6-6. Payment of retirement benefits.** Notwithstanding any other provision of this chapter, all retirees of the State retirement system or county pension funds shall be paid semimonthly.

“B. PENSIONERS BONUS

“**Section 6-7. Bonus; amounts available.** Except as herein provided, every pension or retirement allowance payable under the employees' retirement system or payable pursuant to any law of the State, or by any county or independent public board or commission, shall be increased by a bonus for each month as follows:

“(1) \$56.44 to those retirants and pensioners who had, before July 1, 1966, ten or more years of service; provided that any service-connected disability retirant shall be entitled to receive the bonus payment without meeting such minimum service requirement;

“(2) \$22.58 per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;

“(3) \$22.58 per month additional to the above bonus or bonuses to those retirants or pensioners who have had twenty-one or more years of service;

“(4) If the pension or retirement allowance as increased by such bonus or bonuses does not equal \$146.74 per month, the bonus shall be further increased by such sum not in excess of \$22.58 as may bring the total of the pension or retirement allowance and bonus to \$146.74 per month; provided that where the dependents of a deceased pensioner are receiving pension by reason of his death, the total only of all amounts paid to the dependents shall be so increased and the increase herein shall be shared by them in proportion to the respective amounts of pension receivable by them exclusive of this increase;

“(5) In the case of a member of the employees' retirement system who retires after June 30, 1965, on a service retirement allowance pursuant to section 6-52 or for ordinary disability pursuant to section 6-54, the bonus payable

under this section shall be further limited to the difference between:

(a) the retirement allowance he would have received had he retired on June 30, 1965, plus the bonus; and

(b) his actual retirement allowance.

“(6) Any provision of this section to the contrary notwithstanding, effective January 1, 1966, there shall be paid to every person who, on June 30, 1965, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost-of-living bonus of seven and one-half per cent of the retirement allowance or pension.

“**Section 6-8. Bonus; requirements, limitations.** No retirement allowance or pension payable under the employees’ retirement system shall be increased by any bonus for any retirant or beneficiary unless the person for whose service the pension is payable has had sufficient service to qualify for the minimum service retirement allowance except as provided in subdivision (1) of section 6-7; provided that this provision shall not operate to increase the pension of any person who was receiving a pensioner’s bonus on July 1, 1951, without having met the minimum service requirements but such person shall continue to receive the pension he was receiving on June 30, 1955.

“**Section 6-9. Bonus; retirants not eligible for.** No bonus shall be paid to any person who retires on or after July 1, 1957, and who will receive or who is receiving social security benefits when said benefits are based in whole or in part upon contributions made by the State or any of its political subdivisions.

“**Section 6-10. Bonus; authority to pay.** The board of trustees of the employees’ retirement system shall pay the bonus to pensioners under the system, the comptroller shall pay the bonus to all State pensioners who are not under the system, and the appropriate officer of each county and each independent board or commission hereby affected, shall pay the bonus granted to pensioners whose pensions are payable by the respective counties, boards and commissions, all such payments to be made from allotment pursuant to section 6-12; and all such boards, commissions and officers shall certify to the director of finance, at such times and in such manner as required by the director of finance, the amounts required to meet such bonus payments.

“**Section 6-11. Bonus; waiver by veteran.** Any veteran who may qualify for a non-service-connected pension through the veterans administration may waive any portion or all of the benefits that he may receive under sections 6-7 to 6-12.

“**Section 6-12. Bonus; appropriation.** The director of finance is authorized to include in future budgets of the department of budget and finance such sums as are required to pay the bonuses described in sections 6-7 to 6-12. Such appropriations shall be allotted by the director of finance to the several boards, commissions and officers required to make such payments, except where there is a specific provision for payment of the bonus from other funds, and in the case of the counties the money so allotted shall be paid into each respective county treasury and held in special funds solely for the purpose of

ACT 110

paying bonuses in accordance with sections 6-7 to 6-12.

“Section 6-13. Bonus payment; limitation. No bonus shall be payable to any person retiring after June 30, 1971.

“PART II. RETIREMENT FOR PUBLIC OFFICERS AND EMPLOYEES

“A. DEFINITIONS; BOARD OF TRUSTEES

“Section 6-20. Definitions. The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

“‘Accumulated contributions’: the sum of all the amounts paid by, or deducted from the compensation of, a member and credited to his individual account in the annuity savings fund together with regular interest thereon.

“‘Actuarial equivalent’: a benefit of equal value to the accumulated contributions, annuity, pension or retirement allowance, when computed upon the basis of the actuarial tables in use by the system.

“‘Annuity’: benefit payments for life derived from the accumulated contributions of a member.

“‘Average final compensation’: the average annual compensation as described in section 6-60, which becomes part of the formula for the computation of a retirement allowance.

“‘Beneficiary’: the recipient of any benefit from the system or, as the context may indicate, the natural person or persons designated by a member to receive the benefits payable in the event of his death.

“‘County’: the counties of Hawaii, Honolulu, Kauai and Maui, including their respective boards of water supply and other quasi-independent boards, commissions and agencies.

“‘Credited service’: prior service plus membership service.

“‘Elective officers - elective officials’: elected officers of the State or any county including legislators and county supervisors or councilmen.

“‘Employee’: any employee or officer of the State or any county, including inspectors, principals, teachers and special teachers, regularly employed in the public schools, cafeteria managers and cafeteria workers, apprentices and on-the-job trainees whether or not supported in whole or in part by any federal grants, members of the legislature and other elective officers, legislative employees who are employed on a full time basis during and between sessions, probationary and provisional employees, per diem employees and others who are made eligible by reason of their employment to membership in the system by or pursuant to any other provision of law, but excluding:

“(1) per diem employees who elect to withdraw or not to become members as provided in section 6-32;

“(2) members of the legislature who do not elect to be members as provided in section 6-32;

“(3) persons excluded by rules of the board pursuant to section 6-33.

“An individual is an employee during the period of a leave of absence if he is in service, as defined in this part, during the period of the leave of absence and the board shall determine who are employees within the meaning of this

part.

“Firemen’: all regularly employed members of the fire departments of the counties, whose principal duties are to prevent and fight fires.

“Judge’: a justice of the supreme court or a judge of the circuit court of this State.

“Medical board’: the board of physicians provided for in section 6-29.

“Medical review board’: A board of physicians appointed to review appeals from the decisions of the medical board.

“Member’: any person included in the membership of the system.

“Membership service’: all service rendered by a member for which he had made the required contributions to the system.

“Pensions’: benefit payments for life derived from money provided by the State or county, as the case may be.

“Per diem worker’: a person employed and compensated on an hourly or daily basis.

“Policemen’: all duly commissioned members of the police department of the several counties whose principal duties are law enforcement and who are paid on a monthly salary basis, including without limiting the generality of the foregoing, all police matrons and guards who work under the jurisdiction of such departments.

“Prior service’: service rendered by a member to the State, territory or county or predecessor government prior to the establishment of the system or, as specifically provided in this part, prior to the admission of certain groups or classes of employees into the system membership.

“Regular interest’: interest at four per cent a year, compounded annually.

“Retirant’: a member who has retired and becomes a beneficiary of the system.

“Retirement allowance’: the benefit payable for life to which a member is entitled upon his retirement.

“Service’: service as an employee paid by the State or county, and also service during the period of a leave of absence or exchange if the individual is paid by the State or county during the period of the leave of absence or exchange or if the individual is not paid by the State or county during the period of the leave of absence but the individual is engaged in the performance of a governmental function or on an approved leave of absence for professional improvement with or without pay and the individual makes the same contribution to the system as he would have made if he had not been on such leave of absence. Cafeteria managers and cafeteria workers shall be considered as paid by the State, regardless of the source of funds from which they are paid.

“Service retirement’: retirement of a member for age or length of service.

“System’: the employees’ retirement system of the State of Hawaii.

“**Section 6-21. System established; name.** There shall be a retirement system for the purpose of providing retirement allowances and other benefits for employees. It shall have the powers and privileges of a corporation and

ACT 110

shall be known as the 'Employees' Retirement System of the State of Hawaii' and by that name may sue or be sued, transact all of its business, invest all of its fund, and hold all of its cash and securities and other property.

"Section 6-22. General administration of system vested in board.

The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this part are vested in a board of trustees; subject, however, to the area of administrative control vested in the department of budget and finance by section 14A-13.

"Section 6-23. Composition of board. The board of trustees shall consist of seven members as follows: (1) the director of finance of the State, ex-officio; (2) three members of the system, two of whom shall be general employees and one of whom shall be a teacher, to be elected by the members of the system under the rules and regulations adopted by the board governing the election to serve for terms of six years each, one of the terms to expire on January 1 of each even-numbered year; (3) three citizens of the State who are not employees, one of whom shall be a responsible officer of a bank authorized to do business within the State, or a person of similar experience, to be appointed by the governor to serve for a term of six years each, one of the terms to expire January 1 of each odd-numbered year. Each trustee shall serve until his successor is elected or appointed, as the case may be, and qualified.

"Section 6-24. Vacancy. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except in the case of the trustees elected by the members, in which case the vacancy may be filled for the unexpired term by the appointment of a member by the remaining trustees of the board of trustees.

"Section 6-25. Expenses of trustees. The trustees shall serve without compensation but they shall be reimbursed from the expense fund for all necessary expenses and for any loss of salary or wages they may suffer through serving the board of trustees.

"Section 6-26. Oath of trustees. Each trustee shall, within ten days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board of trustees, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system. The oath shall be subscribed to by the member making it and certified by the officer before whom it is taken and shall be immediately filed in the office of the lieutenant governor.

"Section 6-27. Voting: rules. Each trustee shall be entitled to one vote in the board of trustees. Four concurring votes shall be necessary for a decision by the trustees at any meeting of the board.

"Subject to the limitations of this part, the board shall, from time to time, establish rules and regulations for the administration of the funds of the system and for the transaction of its business.

“Section 6-28. Officers, employers, legal adviser. The board of trustees shall elect from its membership a chairman and shall by a majority vote of all its members appoint a secretary, who may but need not be one of its members. It shall engage such actuarial and other service as shall be required to transact the business of the system. The compensation for all services engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid at such rates and in such amounts as the board shall approve.

“The attorney general shall be the legal adviser of the board.

“Section 6-28.1. Actuary. The actuary shall be the technical adviser of the board of trustees on the matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith.

“Section 6-29. Medical board. The board of trustees shall designate a medical board to be composed of three physicians not eligible to participate in the system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under this part, shall investigate all essential statements and certificates by or on behalf of a member in connection with application for disability retirement, and shall report in writing to the board its conclusions and recommendations upon all the matters referred to it.

“Section 6-29.1. Medical review board. The board of trustees may appoint an independent review board of licensed physicians to review such decisions of the medical board as may be referred by the board pursuant to an appeal filed under the provisions of section 6-62. The decisions of the medical review board shall be final and binding.

“Section 6-30. Prohibited interest of trustees and employees of board. Except as herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board, nor as such receive any pay or emolument for his services. No trustee or employee of the board shall, directly or indirectly, for himself or as an agent in any manner use the moneys of the system, except to make such current and necessary payments as are authorized by the board; nor shall any trustee or employee of the board become an indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

“B. MEMBERSHIP; SERVICE

“Section 6-31. Limitation of other statutes. No other provision in any other statute which provides wholly or partly at the expense of the State or any county for pensions or retirement benefits for employees of the State or of any county, their widows or other dependents shall apply to members, retirants or beneficiaries of the system established by this part, their widows or other dependents, except such benefits as may be provided under Title II of the Social Security Act.

“Section 6-32. Membership generally. Except as otherwise provided in this part, all employees of the Territory or any county on July 1, 1945, shall be members of the system on such date, and all persons who thereafter enter or reenter the service of the State or any county shall become members at the time of their entry or reentry.

“Per diem workers shall become eligible for membership on January 1, 1952, and all persons who are employed as per diem workers after December 31, 1951, shall become members of the system. Any person who was a per diem worker before January 1, 1952, shall not, so long as he is employed as a per diem worker, be required to become a member or to remain a member if he has elected before October 2, 1953, to withdraw as a member.

“Members of the legislature shall become eligible for membership on July 1, 1951. Any member of the legislature in service on July 1, 1951, or thereafter entering or reentering the legislature, may become a member upon his own election.

“Section 6-33. Persons ineligible for membership; optional membership. The board of trustees may deny membership to any class of part-time employees or persons engaged in temporary employment of three months or less, or it may, in its discretion, make optional with persons in such classes their individual entrance into membership; provided that no officer or employee entering service after January 1, 1928, who is entitled to become a member of any pension system under Part III shall be entitled to become a member of the system.

“Elective officers shall be eligible for membership and their individual entrance into membership shall be at their option.

“Section 6-34. Enrollment. Upon entering or reentering service, an employee shall file with the board such information as the board of trustees may require for enrollment and administrative purposes including a designation of a person or persons to receive any benefit that may be payable in the event of his death.

“An employee becoming a member of the system shall also present at such time and in such form as the board prescribes, evidence of his date of birth. No statement or record of age or birth made or presented by a member of the system may be impeached by the member or his successors in interest.

“Section 6-35. Employee contributions. After June 30, 1965, the normal contribution by each member to the annuity savings fund shall be six per cent of his compensation, provided that after June 30, 1967, all firemen and policemen shall contribute ten and four-tenths per cent of their compensation.

“In addition to the foregoing, all members including firemen and policemen, shall contribute one-half of one per cent of compensation to the post retirement fund.

“Section 6-36. Deducting employee contributions from salary. The head of each State department and the finance director of each county shall cause to be deducted from the salary of each member on each and every payroll under his jurisdiction for each and every payroll period, the percentage of

compensation of each member as provided under section 6-35. The total amount of deductions made from the salaries of employees and a record of the amount deducted from each member's compensation shall be transmitted to the system monthly or at such other times as may be agreed upon by the board of trustees. The amounts so deducted shall be paid into the annuity savings fund and the post retirement fund and shall be credited to the individual accounts of the member from whose compensation the deductions were made. Regular interest shall also be credited to the individual account of the member in the annuity savings fund.

“Section 6-37. Membership; class A members and class B members.

There shall be two classes of members in the system to be known as class A members and class B members, defined as follows:

“(1) Class A members shall consist of those members who are covered by the provisions of Title II of the Federal Social Security Act on account of service creditable under this part. These members shall consist of: (A) all employees who enter the membership of the system after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended; (B) all employees who were members of the system on July 1, 1957, who elected to be covered by the Social Security Act.

“(2) Class B members shall consist of all other members in the system.

“Section 6-38. Deduction in class A member's account. An amount equal to the taxes under the Federal Insurance Contributions Act payable by a class A member for the period beginning January 1, 1956, and ending on the date class A membership is obtained, shall be deducted from his account in the system. Any member may elect to contribute to the system an amount equal to the taxes so deducted, which amount shall be credited to his account.

“Section 6-39. Computation of year of service. The board of trustees may fix and determine by appropriate rules and regulations how much service in any year is equivalent to a year of service but in no case shall more than one year of service be credited in twelve calendar months, nor shall the board allow credit as service for any period of more than one month's duration during which the employee was absent without pay.

“Section 6-40. Employees paid partly from federal funds. Where any employee, subject to the compensation law, has a portion of his salary paid from federal funds but is not subject to the federal retirement system, the employee shall be entitled to all benefits and be required to make all employee contributions under the system based upon the full salary received by the employee, including that portion of the salary paid from federal funds.

“This section shall be retroactive as to all employees affected, upon the employee paying into the system the contributions which would have been required had the employee's full salary been paid by the State or county, together with the necessary interest accumulations.

“Section 6-41. Membership service generally. Membership service includes (1) service by an employee rendered since becoming a member, (2) service rendered prior to becoming a member but (A) subsequent to January 1,

ACT 110

1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county, (3) service as an employee of the federal government where the function carried on by said government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county, (4) service of a governmental nature performed under the supervision or control of the State or any county, and performed for the State or any county by an employee of an employer other than the State or county, (5) service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time he renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived his right to any credit under the Civil Service Retirement Act (5 USCA 2251) based upon such service; provided further, that credit for such service shall not exceed eight years, (6) service as an employee of the Hawaii territorial guard, (7) service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay, and (8) service between the years 1941 and 1945 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of his employer, and returned to his regular job at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees.

“Membership service shall only be credited for any period for which the member makes the required contributions to the system.

“**Section 6-42. Service while a member of the legislature.** Under such rules and regulations as the board of trustees may adopt, any legislator electing to become a member or any former legislator electing to become a member, shall file, on a form approved by the board, a detailed statement of all service as a legislator rendered by him for which he claims credit and which is not otherwise credited to him under this part. The board shall verify as soon as practicable the period of service therein claimed and shall allow prior service credit for all such service rendered prior to July 1, 1951, anything to the contrary in this part notwithstanding. All service rendered as a member of the legislature after June 30, 1951, shall be considered membership service.

“**Section 6-43. Service while legislative employee.** Any member who takes a leave of absence to be employed by the legislature during any legislative session shall be entitled to all benefits and required to make all employee contributions under the system for the period during which such employee worked for the legislature.

“Any employee who, prior to his becoming a member, was employed as an employee of the legislature during any legislative session shall be entitled to membership service for the period of such employment by applying and paying therefor as required by section 6-48 for the acquisition of membership service.

“Section 6-44. Services of field civilian personnel of the Hawaii national guard. Civilian field personnel of the Hawaii national guard are entitled to membership credit for all service performed by them in such capacity since August 1, 1946, upon making application therefor and complying with section 6-48, provided that by federal law or regulation a payroll deduction has been made for the contribution required to be made into the system by the employee.

“Section 6-45. School cafeteria managers and workers. School cafeteria managers and workers shall be considered as employees paid by the State regardless of the source of the funds from which they are paid. Any other provision of this part to the contrary notwithstanding, any member classified as a cafeteria manager or worker may purchase twelve months' service credit per year during the time he was working on a nine-month schedule during a calendar year.

“Section 6-46. Prior service generally. Prior service is credited without cost to the member entitled thereto. Prior service includes (1) service as an employee rendered (A) by an employee of the Territory prior to January 1, 1926, or (B) by an employee of any county prior to January 1, 1928, (2) service in a similar capacity paid for by the Republic of Hawaii or by the preceding provisional or monarchical governments, (3) all service creditable to the employee under any other retirement system supported wholly or in part by the State at the time he became a member of this system, (4) periods of honorable service in the army, navy, marine corps, coast guard and public health services of the United States at any time between the dates of April 5, 1917 and July 2, 1920, which service necessitated separation at the time of its inception from existing Territorial or county employment, (5) service as an employee during the period from January 1, 1926 to December 31, 1927, in the case of a member who became an employee of the Territory during said period was in the regular employ of any county immediately prior to the time he became a Territorial employee and was an employee of the Territory on January 1, 1928, and (6) other areas or periods of service described and designated in this part to constitute prior service.

“Section 6-47. Prior service credit while per diem employee. Employees in per diem positions, employees who formerly filled per diem positions, and former employees who filled per diem positions after December 31, 1927, shall be allowed full prior service credit in the system for their per diem service.

“Section 6-48. Acquisition of credit for previous service. Under such rules and regulations as the board of trustees may adopt, any member may file with the board a statement of all service as an employee or other service paid for by the State or a county rendered prior to his last becoming a member which is not otherwise credited to him, for which he claims prior service credit, and also a statement of such services for which he claims membership service credit and for which he agrees to have additional deductions made from his compensation or to make a lump sum payment as hereinafter described.

“As soon as practicable after the filing of any such statement, the board shall verify the service therein claimed and determine the service credit allowable therefor. Verified prior service shall be credited forthwith. For a period equal to the period for which membership service credit is allowable, the deductions from the member’s compensation shall be twice the proportion provided for in section 6-35, and the contributions shall be paid to the system and shall be credited to the member’s individual account and become part of his accumulated contributions. The member may, at his option, pay in a lump sum the contributions payable on account of the period for which membership service is allowable. Such lump sum contributions shall be computed at the contribution rate provided by section 6-35, applied to the member’s monthly salary at the time of payment multiplied by the number of months for which membership service credit is being claimed.

“Membership service credit in addition to any other service credited to the member shall be allowed the member for the period for which such double deductions or lump sum contributions have been made.

“No post retirement contributions shall be required for any service being claimed which is prior to July 1, 1961.

“Any member of the legislature who reenrolls as an active member in accordance with section 6-49.2 and who desires to obtain membership service for a period of service as a member of the legislature during which he received a retirement allowance shall, in addition to complying with the provisions of this section, refund while a reenrolled active member the retirement allowance received during the period of legislative service.

“**Section 6-48.1. Members whose services are on loan to other governments.** Any member whose services are on loan to another government, as authorized by section 5-44, shall retain his membership and shall receive credit in the system for such service, provided he returns to his former employment within ninety days after the termination of such service and, provided further, that the government receiving the loan of his services fulfills all of the requirements of section 5-45.

“**Section 6-49. Termination of membership.** “(1) Except as otherwise provided by section 6-75, any member absent from service for four calendar years following the calendar year in which his employment terminated shall cease to be a member.

“(2) Any member who withdraws his contributions, becomes a retirant, or dies, ceases to be a member as of the date of withdrawal, retirement or death.

“**Section 6-49.1. Return to service of a former member.** “(1) If a former member who has been out of service for a period of four full calendar years or more after the year in which he left service, or if a former member who withdrew his accumulated contributions returns to service, he shall become a member in the same manner and under the same conditions as anyone first entering service; however, he may obtain membership service credit for his former credited service as provided in section 6-48. If such member did not

withdraw his accumulated contributions prior to his return to service, such contributions shall be returned to him as part of the process of enrolling him in the system.

“In order to be eligible for any benefit, he must fulfill the membership service requirements for such benefit through membership service after again becoming a member in addition to meeting any other eligibility requirement established for such benefit.

“(2) If a former member who did not withdraw his accumulated contributions returns to service within four full calendar years after the year in which he left service, he shall again become a member in the same manner and under the same conditions as anyone first entering service, except that he shall be credited with service credit for the service he had when he terminated employment and his new and previous accumulated contributions shall be combined.

“C. BENEFITS

“**Section 6-50. Credited service at retirement.** Credited service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service and his prior service, if any, as provided in this part.

“**Section 6-51. Refund of additional contributions.** A member may withdraw at any time prior to his retirement, all his voluntary contributions made to provide an annuity in addition to the retirement allowance provided under section 6-53.

“**Section 6-52. Service retirement.** Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

“(1) Any member who has at least five years of credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge or an elected officer, may retire upon his written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired.

“(2) Any member who has at least five years of credited service and who attains the age of seventy years shall be retired on the first day of the calendar month next succeeding that in which he attains such age; provided, a member of the legislature may continue or be restored to active membership in the system after the age of seventy years during the period such member is serving in his elective capacity.

“(3) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although he continues to fill his elective position.

“**Section 6-53. Allowance on service retirement.** Upon retirement for service, a member shall receive a retirement allowance as follows:

“(1) If the member has attained the age of fifty-five, a retirement allow-

ACT 110

ance of one-fiftieth of the average final compensation of the member multiplied by the total number of years of his credited service; provided, that after June 30, 1968, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a fireman or a policeman, then for each year of service as a fireman or a policeman the retirement allowance shall be two and one-half per cent of his average final compensation; provided further, that the maximum retirement allowance for such a member shall not exceed eighty per cent of his average final compensation. If the member has not attained the age of fifty-five, his retirement allowance shall be computed as though he had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary.

“(2) If the member has made voluntary additional contributions for the purchase of an additional annuity and has not applied for the refund thereof as permitted by section 6-51, he may accept such refund at time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in (1) hereof, an annuity which is the actuarial equivalent of such additional contributions with regular interest.

“(3) If the member has credited service as a judge or an elective officer, his retirement allowance shall be computed on the following basis: (A) irrespective of age, for each year of credited service as a judge or an elective officer, three and one-half per cent of his average final compensation in addition to an annuity which is the actuarial equivalent of his accumulated contributions allocable to the period of such service; and (B) for all other credited service as provided in subsections (1) and (2) hereof. No allowance shall exceed seventy-five per cent of the average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in (A) of this subsection and the portion of the accumulated contributions specified in the same subsection as may be in excess of the requirements of the reduced annuity shall be returned to the member.

“The allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of average final compensation.

“**Section 6-54. Ordinary disability retirement.** Upon the application of a member in service or of the head of his department, any member who has had ten or more years of credited service shall be retired by the board of trustees on an ordinary disability retirement allowance if the medical board, after a medical examination of such member, certifies that (1) he is mentally or physically incapacitated for the further performance of duty, (2) that the incapacity is likely to be permanent, and (3) that the member should be retired.

“Retirement shall become effective upon the date the board specifies which is not less than thirty days next succeeding the date of filing of application.

“**Section 6-55. Allowance on ordinary disability retirement.** Upon retirement for ordinary disability, a member shall receive a service retirement allowance if he has attained the age of fifty-five years, otherwise, he shall re-

ceive a retirement allowance of twenty-five per cent of his average final compensation plus one per cent of his average final compensation for each full year of credited service over fifteen except that for each year of credited service as a judge or an elective officer, he shall receive a retirement allowance computed as provided in section 6-53(3)(A).

Section 6-56. Service-connected total disability retirement. (a) Upon application of a member, or of the head of his department, any member who has been permanently incapacitated as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no willful negligence on his part, may be retired by the board of trustees for service-connected total disability provided that:

“(1) In the case of an accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer’s report of the accident submitted to the bureau of workmen’s compensation;

“(2) An application for retirement is filed with the board within two years of the date of the accident or the date upon which workmen’s compensation benefits cease, whichever is later;

“(3) Certification is made by the head of the agency in which the member is employed, stating the time, place and conditions of the service performed by the member resulting in his disability and that the disability was not the result of willful negligence on the part of the member;

“(4) The medical board certifies that the member is incapacitated for gainful employment and that his incapacity is likely to be permanent.

“(b) In the case of firemen, the cumulative effect of the inhalation of smoke, toxic gases, chemical fumes and other toxic vapors on the heart, lungs and respiratory system shall be construed as an injury received or disease contracted while in the performance of their duty and as the cumulative result of some occupational hazard for the purpose of determining total disability retirement under this section.

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

“(d) The board shall have the power to determine whether or not the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of willful negligence on the part of the member. The board may accept as conclusive: (1) the certification made by the head of the agency in which the member is employed; or (2) a finding to this effect by the medical board.

“Section 6-57. Allowance on retirement for service-connected total disability. Upon retirement for service-connected total disability, a member shall receive a retirement allowance which shall consist of an annuity plus a

pension of sixty-six and two-thirds per cent of his average final compensation.

“Section 6-58. Service-connected occupational disability retirement.

(a) Upon application of a member, or of the head of his department, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no willful negligence on his part, may be retired by the board of trustees for service-connected occupational disability provided that:

“(1) In the case of accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer’s report of the accident submitted to the bureau of workmen’s compensation;

“(2) An application for retirement is filed with the board within two years of the date of the accident, or the date upon which workmen’s compensation benefits cease, whichever is later;

“(3) Certification is made by the head of the agency in which the member is employed, stating the time, place and conditions of the service performed by the member resulting in his disability and that the disability was not the result of willful negligence on the part of the member; and

“(4) The medical board certifies that the member is incapacitated for the further performance of duty, that his incapacity is likely to be permanent.

“(b) In the case of firemen, the cumulative effect of the inhalation of smoke, toxic gases, chemical fumes and other toxic vapors on the heart, lungs and respiratory system shall be construed as an injury received or disease contracted while in the performance of their duty and as the cumulative result of some occupational hazard for the purpose of determining occupational disability retirement under this section.

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

“(d) The board shall have the power to determine whether or not the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of willful negligence on the part of the member. The board may accept as conclusive: (1) the certification made by the head of the agency in which the member is employed; or (2) a finding to this effect by the medical board.

“Section 6-59. Allowance on retirement for service-connected occupational disability. Upon retirement for service-connected occupational disability, a member shall receive for a period of three years from the date of retirement, an allowance computed in the manner prescribed for service-connected total disability. In addition, within this three-year period, he shall be reimbursed in full for all expenses for all services, drugs and appliances approved by the medical board as being necessary to the treatment and care of

the disability, which expenses are not met by the Hawaii public employees health fund. Within the three-year period, the system shall also pay the cost of any physical and vocational rehabilitation services approved by the medical board. After the completion of three years, the annuity being paid shall be continued and the pension shall be thirty-three and one-third per cent of his average final compensation; provided, if the medical board shall, within the three-year period of time, find and certify the disability pensioner is totally incapacitated for gainful employment, the board shall award a service-connected total disability benefit in which case benefits shall be paid under section 6-57.

“Any other provision of this part notwithstanding, a retirant receiving service-connected occupational disability benefits shall continue to receive such benefits irrespective of his later employment or if he later becomes a member of the system. If such a retirant again becomes a public employee, his membership status in the system shall be determined as though he were entering public employment for the first time and all benefits related to such new membership shall be accrued and paid without reference to the service-connected occupational disability benefits being paid.

“**Section 6-60. Average final compensation.** The average annual compensation, pay or salary upon which a member has made contributions as required by sections 6-35 and 6-36, (1) during his five highest paid years of credited service, or (2) if he has had less than five years of credited service, then during his actual years of credited service.

“In computing the compensation of a judge, the compensation paid to him by the United States as well as by the Territory shall be included.

“For service rendered as a member of the legislature after the admission of this State into the union and until November 5, 1968, the annual compensation of a member for the purpose of determining his average final compensation shall be computed as follows: (1) during a year in which a general session is held, an amount equal to four times the salary of a member of the legislature for a general session; and (2) during a year in which a budget session is held, an amount equal to six times the salary of a member of the legislature for a budget session.

“For service rendered as a member of the legislature prior to the admission of this State into the union, the annual compensation of a member shall be deemed to have been four times the salary of a member of the legislature for a regular session for each year during his term of office, or \$4,000 per year.

“**Section 6-62. Appeal of decision of medical board.** A member who is not satisfied with the decision of the medical board may appeal the decision to the board of trustees within sixty days after receiving notification of the decision of the medical board. The board of trustees, after hearing the appeal, may refer the matter to the medical review board, whose decision shall be final and binding. The right of appeal to the board of trustees shall apply to all decisions and recommendations which the medical board is authorized to make. The provisions of sections 6C-9 to 6C-13 shall not apply to reviews or proceedings of the medical review board.

“Section 6-63. Election of mode of retirement allowance. Maximum allowance: Upon retirement, any member may elect to receive the maximum retirement allowance to which he is entitled computed in accordance with the provisions described under sections 6-53, 6-55, 6-57 or 6-59 of this part and in the event of his death, there shall be paid to his beneficiary otherwise to his estate, the difference between the balance of his accumulated contributions at the time of his retirement and the retirement allowance paid or payable to him prior to death.

“In lieu of this maximum allowance, he may elect to receive his retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

“Option 1: The member may elect to receive a lesser retirement allowance during his lifetime. At this* retirement, there shall be established an amount of initial insurance which shall be computed on the basis of actuarial factors adopted by the board of trustees. Upon the death of the retirant, any balance remaining in the initial insurance reserve after deducting the retirement allowance paid to the retirant prior to death, shall be paid to his beneficiary, otherwise to his estate. In lieu of the lump sum balance, the beneficiary may elect to receive payment in one of the following ways: (1) an allowance for life based on the value of the balance provided that the allowance is not less than \$10 per month; or (2) cash payment in part and a reduced allowance for life based on the value of the remaining balance provided that the allowance is not less than \$10 per month.

“Option 2: The member may elect to receive a lesser retirement allowance during his lifetime and have such allowances continued after his death to his beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

“Option 3: The member may elect to receive a lesser retirement allowance during his lifetime and have one-half of such allowance continued after his death to his beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

“Option 4: The member may elect to receive a lesser retirement allowance during his lifetime and provide some other benefit to his beneficiary in accordance with his own specification; provided, however, that such election shall be certified by the actuary to be the actuarial equivalent of his retirement allowance and shall be approved by the board.

“Option 5: The member may elect to receive the balance of his accumulated contributions at the time of retirement in a lump sum and, during his lifetime a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirant, all further payments shall cease. Only a member retiring for service having at least ten years of credited service or for disability may elect this mode of retirement.

“To receive benefits, the beneficiary must have been designated by the member in such form and manner as is prescribed by the board.

* So in original

“If the retirant dies within thirty days after the effective date of retirement, instead of receiving benefits under any of the modes of retirement as provided in this section, his beneficiary shall receive benefits as if death had occurred immediately prior to retirement, less any payments made to the retirant. In the event of the death of the retirant more than thirty days but within one year after the date of retirement, his beneficiary may elect to receive either the death benefits under the mode of retirement selected, or in lieu thereof, such benefits as would have been paid had the retirant died immediately prior to retirement, less any payments which the retirant received.

“Any election of a mode of retirement allowance shall be irrevocable.

“**Section 6-65. Ordinary death benefit.** Upon the receipt of proper proofs of a member’s death in service, there shall be paid to his beneficiary, otherwise to his estate, an ordinary death benefit consisting of (1) his accumulated contributions and if no pension is payable under the provisions of section 6-66, in addition thereto, (2) his contributions to the post retirement fund, and (3) an amount equal to fifty per cent of the compensation earned by him during the year immediately preceding his death if he had at least one year but not more than ten full years of credited service, which amount shall increase by five per cent of such compensation for each full year of service in excess of ten years, to a maximum of one hundred per cent of such compensation; provided that if the member had at least one year of credited service, the amount, together with his accumulated contributions shall not be less than one hundred per cent of the compensation.

“If the member was eligible for service retirement at the time of his death in service, and the death occurred after December 31, 1962, his surviving spouse, if she is his designated beneficiary, may elect to receive in lieu of any other payments provided in this section, the allowance which would have been payable if the member had retired the day prior to death and had elected to receive his retirement allowance under option 3 of section 6-63.

“**Section 6-66. Accidental death benefit.** Upon the receipt of proper proofs of a member’s death by the board of trustees, there shall be paid to the member’s designated beneficiary or to his estate the amount of his accumulated contributions and if, upon the receipt of evidence or proofs that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, the board shall decide that the death was the result of an accident in the performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of the ordinary death benefits provided by the contributions of the State or county, a pension of one-half of the average final compensation of the member, (1) to his widow to continue during her widowhood; or (2) if there be no widow, or if the widow dies or remarries before any child of the deceased member shall have attained the age of eighteen years, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half his final compensation until every child dies, or attains such age; or (3) if there is no widow or child under the age of eighteen years surviving the deceased

ACT 110

member, then to his dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there is no such nomination, then to his dependent father or to his dependent mother as the board, in its discretion, shall direct to continue for life.

“Section 6-67. Pensions offset by compensation benefits. Any amount which may be paid or payable by the State or any county under any workmen’s compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against and payable in lieu of any benefit payable out of funds provided by the State or county under this part on account of the same disability or death. At such time as the amounts payable under any such workmen’s compensation or similar award have been paid in full, payment of the benefits to which the member or dependents of a member are otherwise entitled under this part shall be resumed in full. In the case of any lump sum workmen’s compensation payment other than level payments for a period of time, the system shall obtain from the State department of labor and industrial relations, division of workmen’s compensation, the level weekly or monthly amount and the related period of time which are equivalent to the actual workmen’s compensation award and shall apply this amount and related period of time against system benefits as though the workmen’s compensation award had been paid in this manner.

“Section 6-68. Minimum amount. Each retirant who has a minimum of ten years of credited service and whose service retirement allowance is less than \$30 per month, shall be paid from the minimum pension fund an amount which, together with his retirement allowance, equals the sum of \$30 per month.

“Section 6-69. Adjustment for deficiency in accumulated contributions. Upon retirement, the maximum retirement allowance of any member whose accumulated contributions are deficient shall be reduced by an amount which is the actuarial equivalent of the amount of the deficiency. A deficiency shall be the amount by which a member’s accumulated contributions fail to equal the accumulated contributions which would be standing to his account had he contributed at full rate required by law without reduction through withdrawals or advances. Anticipated deficiencies may be repaid by the member in advance of retirement, in which case regular interest shall be computed to date payment is received in determining the amount of the deficiency.

“Section 6-70. Post retirement allowances. There shall be payable to each person receiving any pension, annuity or retirement allowance, a post retirement allowance which shall consist of an amount equivalent to one and one-half per cent of the monthly pension, annuity or retirement allowance as originally computed, approved and paid. This benefit shall be added to the monthly pension, annuity or retirement allowance on the first day of July in each year following June 30, 1961, as follows:

“(1) To each person receiving a pension, annuity or retirement allowance on June 30, 1961, payment of the benefit shall commence on July 1, 1961, ex-

cept that after June 30, 1963, the monthly benefits payable under this subsection shall be computed and paid on the basis of the number of years that has elapsed since the person entitled thereto first became the recipient of the pension, annuity or retirement allowance from which the benefit is derived.

“(2) To each person first receiving a pension, annuity or retirement allowance after June 30, 1961, payment of the benefit shall commence on the first of July following the calendar year in which the payment of the pension, annuity or retirement allowance is effective.

“**Section 6-71. Exemption from taxation and execution.** The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this part and the moneys in the various funds created under this part are exempted from any tax of the State and, except as in section 6-72 provided, shall not be subject to execution, garnishment or any other process and shall be unassignable except as in this part specifically provided.

“**Section 6-72. Garnishment in certain cases; procedure.** Whenever the comptroller or attorney general of the State, or any county finance director or attorney, or the head of any department, bureau, board or other agency of the State or any county finds, or has reason to believe, that any person entitled to any moneys mentioned in section 6-71 (such person being hereinafter in this section designated as the defendant) has embezzled, stolen or otherwise unlawfully taken, received, retained or failed properly to account for, any property or funds belonging, and which have not been returned or repaid, to the State or any county or any department, bureau, board, or other agency thereof, he shall promptly notify the board of trustees hereof in writing requesting the board to withhold payment of such moneys to the defendant pending the investigation hereinafter provided for and shall proceed promptly to make such investigation as he deems necessary to ascertain the facts.

“If after the investigation he finds insufficient evidence in his judgment to warrant the action hereinafter provided for, or if the investigation exonerates the defendant, he shall promptly notify the board in writing of such finding and shall withdraw the notice to withhold.

“If, however, in his judgment, the evidence warrants the action, he shall forthwith bring an action in the name of the State or county, or the department, bureau, board or other agency concerned (if it is authorized by law to sue in its own name), as the case may be, against the defendant in a court having jurisdiction of the amount of the judgment prayed for in any district or circuit, as the case may be, in which the defendant can be found or resides, or in the circuit court of the first judicial circuit, setting forth of his own knowledge or on information and belief, as the case may be, the facts of the case, including the amount of funds or the value and description of the property alleged to have been embezzled, stolen or otherwise unlawfully taken, received or retained, or not properly accounted for, naming the board as garnishee, and praying for judgment against the defendant and for the issuance of garnishment process against the board. All such courts are hereby given jurisdiction of these ac-

ACT 110

tions.

“The form of the complaint and summons shall be similar, as nearly as may be, to that used in proceedings against government beneficiaries under chapter 238, and the action authorized by this section shall lie notwithstanding the fact that the claim in certain cases may be for an unliquidated amount or may sound in tort. Upon receipt of the notice, the board shall withhold the payment of the moneys to the defendant for the period and in the manner hereinafter provided. If the garnishment process hereinabove mentioned is not served upon the board within the period of sixty days after receipt by the board of the notice to withhold, or if before the expiration of the period the notice to withhold shall be withdrawn, the board shall thereupon pay such moneys to the defendant.

“If, however, the garnishment process is served upon the board within the period, it shall be unlawful for the board to pay any such moneys to the defendant or his order until the garnishment proceedings shall have been withdrawn or dismissed, or the judgment, if any, obtained against the defendant shall have been fully paid, any of which events, as the case may be, shall be certified by the court, in or before which such proceedings has been pending. The moneys so withheld from the defendant shall be deemed sequestered in the custody of the board from the time of service on the board. At any time after service upon the board, the court, upon the consent of the plaintiff or upon motion of the defendant or of the board and notice to the plaintiff, may determine whether the amount so withheld is excessive in comparison with the judgment that the plaintiff might obtain in the action, and, if so, what part thereof is a reasonable amount to be so sequestered, and may thereupon release the remainder thereof from being so sequestered.

“The provisions of chapter 238 shall be applicable, as nearly as may be, to garnishment proceedings authorized by this section, as to certification of the judgment to the garnishee, payment of judgment, and other matters not specifically provided for in this section.

“**Section 6-73. Named beneficiaries by active members; effect of marriage, divorce, or death.** “All nominations by written designation of beneficiaries shall become null and void when: (1) the beneficiary predeceases the member; (2) the member is divorced from the beneficiary; or (3) the member is unmarried, and subsequently marries. Any of the above events shall operate as a complete revocation of such designation and all benefits payable by reason of the death of the member shall be payable to his legal representatives unless, after the death, divorce or marriage, he makes other provision in a written designation duly executed and filed with the board of trustees.

“**Section 6-74. Withholding of income taxes.** “A retired member, if he consents in writing, may have withheld from his pension, annuity, or retirement allowance payment an equivalent percentage of such payment as will in the aggregate approximate such member’s federal income tax liability as would result from such pension, annuity, or retirement allowance within the meaning of the United States Internal Revenue Code; payment of such taxes as withheld shall be the liability of the system. The board of trustees shall promulgate

rules and regulations to administer the purposes of this section.

“Section 6-74.1. Withholding of dues and insurance premiums. A retired member, if he requests in writing, may have withheld from his pension, annuity or retirement allowance, payments to employee organizations for dues and insurance premiums.

“Section 6-75. Rights of members separated from service. “(a) Any member who ceases to be an employee shall, upon completion of such forms as are prescribed by the board of trustees, be paid all his accumulated contributions and his membership shall thereupon terminate, provided that interest shall not be credited to an individual’s account nor shall his membership continue after the fourth full year following the calendar year in which his employment terminates.

“(b) Subsection (a) of this section notwithstanding, any member having five or more years of credited service who ceases to be an employee may establish a vested benefit status by completing within four calendar years following the calendar year in which his employment terminates, such forms as are prescribed by the board for this purpose.

“(c) Any member who establishes a vested benefit status shall be eligible for the service retirement benefit in effect at the time of his separation from service, payable in accordance with the provisions relating thereto.

“(d) In case of the death of any former member after the termination of service, his accumulated contributions shall be payable to his estate or to such person as he has nominated by written designation duly executed and filed with the board.

“(e) After July 1, 1961, there shall be included in any payment of accumulated contributions made pursuant to this section, the sums contributed by the member to the post retirement fund.

“Section 6-75.1. Return to service of a member who has vested benefit status. If a former member who has established vested benefit status as provided in section 6-75 returns to service before his retirement, he shall again become a member and shall contribute for membership service as provided by the law in effect during his second period of membership. In order to become eligible for any benefit in addition to his vested benefit, he must fulfill the membership service requirements for such benefit through membership service after again becoming a member in addition to meeting any other eligibility requirements established for such benefit. The benefit to which he has a vested right shall not be changed but whatever benefit accrued from his second period of membership shall be added to his vested benefit to comprise his retirement allowance. If he again leaves service before retiring and does not withdraw his accumulated contributions, his vested benefit shall consist of the combined retirement allowance.

“D. ADMINISTRATION - FINANCING

“Section 6-76. Payment of existing pensions. “(a) The pensions of all teachers on the pension rolls of the retirement fund for pensioning retired

ACT 110

teachers on January 1, 1926, shall be continued and paid from the pension accumulation fund at the rates at which they were paid prior to that date.

“(b) The pensions of all other persons retired prior to April 22, 1925, and granted pensions on account of service for the Territory shall, if they were in force on June 30, 1925, be continued and paid from the pension accumulation fund. Any additional amount required to continue such pensions shall be provided by an increase in the accrued liability contribution otherwise payable to the pension accumulation fund.

“(c) The administration and payment of all other pensions provided by the legislature and the pensions and allowances similarly provided for veterans of the Hawaii guard shall be the responsibility of the system from and after June 5, 1953. All sums required for these purposes shall be provided by appropriation to the system.

“**Section 6-77. Classification of members.** The board of trustees shall classify each member in one of the following groups:

“Group 1. General employees of the State, including administrative, clerical, professional and technical workers, mechanics, laborers and all others not otherwise classified;

“Group 2. Teachers, including all teachers regularly engaged in public education whose salaries are wholly or partly paid by the State;

“Group 3. General employees of the counties, including administrative, clerical, professional and technical workers, mechanics, laborers and all others not otherwise classified;

“Group 4. Policemen and firemen in the employ of the counties; or in any other group which may be recommended by the actuary on the basis of service and mortality experience and approved by the board, to cover any part of any group or groups previously created or any additional class of employees.

“**Section 6-78. Records.** The board of trustees shall keep a record of all of its proceedings which record shall be open to public inspection. It shall publish annually a report showing in detail the fiscal transactions of the system for the year ending the preceding June 30, the amount of the accumulated cash and securities of the system and of an actuarial valuation of the assets and liabilities of the system. The board shall submit the report to the governor and shall furnish copies thereof to the heads of the various departments of the State and county for their use and the use of the members employed therein.

“**Section 6-79. Actuarial data.** The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the system and for checking the experience of the system.

“**Section 6-81. Actuarial investigations, valuations.** At least once in each five-year period, commencing with the year 1929, the actuary shall make an actuarial investigation of the experience of the system and shall recommend to the board of trustees the adoption for actuarial valuation of the system of such mortality, service and other tables as shall be deemed appropriate and necessary.

“On the basis of such tables as the board shall adopt, the actuary shall

make an annual valuation of the assets and liabilities of the funds of the system.

“Section 6-82. Correction of errors. Should any change or error in records result in any member, retirant, or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, the board of trustees shall correct the error and as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which the member, retirant, or beneficiary was correctly entitled shall be paid.

“Section 6-83. Interest. The board of trustees shall annually allow regular interest on the mean amount for the preceding year in the annuity savings fund and the post retirement fund. The amounts so allowed shall be credited annually thereto by the board from interest and other earnings on the moneys of the system. Any additional amount required to meet regular interest on the mean amount for the preceding year in the pension accumulation fund shall be paid by the State and counties and any excess of earnings over such amount required shall be deductible from the amounts to be contributed by the State and counties.

“Section 6-84. Cash for meeting disbursements. For the purpose of meeting disbursements for retirement allowances, pensions, annuities and other payments, there may be kept available cash, not exceeding ten per cent of the total amount in the several funds of the system, on deposit in any one or more banks or trust companies of the State, organized under the laws thereof or of the United States. The sum on deposit in any one bank or trust company shall not exceed twenty-five per cent of the paid up capital and surplus of the bank or trust company.

“Section 6-85. Funds of the system. The assets of the system are assigned to the following funds hereby created: (1) the annuity savings fund; (2) the pension accumulation fund; (3) the post retirement fund; (4) the expense fund; and (5) the minimum pension fund.

“Section 6-86. Board trustees of funds. The board of trustees shall be trustees of the several funds of the system and may invest and reinvest such funds as authorized by this part and by law from time to time provided. Subject to the terms, conditions, limitations and restrictions of this part and by law from time to time provided, the trustees may hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of the investments and any moneys belonging to the funds.

“Section 6-87. Custodian of the funds. The State director of finance shall be the custodian of the several funds. All payment from the funds shall be made by him only upon vouchers signed by the chairman and countersigned by such other person as may be designated by the board of trustees.

“Section 6-88. Annuity savings fund; annual statement. The annuity savings fund shall be comprised of the members' accumulated contributions. A

ACT 110

member shall be mailed an annual statement showing his accumulated contributions upon request therefor.

“Section 6-89. Payments from annuity savings fund. Any lump sum payment of a member’s contributions shall be charged against the annuity savings fund. When a member retires, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund.

“Section 6-90. Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all contributions made by the State and any county and all income from investments and from which shall be paid all benefits other than those benefits which are specifically payable from other funds.

“Section 6-91. Post retirement fund. The post retirement fund shall be the fund to which shall be credited all moneys contributed by the members and provided by the State and counties to pay the post retirement allowances and from which all post retirement allowances shall be paid in accordance with section 6-70. Annually, the board of trustees shall determine the amount of money that the State and counties shall contribute to this fund on the basis of one-half of one per cent of the aggregate annual amount of compensation as of March 31 of the preceding year of all members who were employees of the State or counties, as the case may be, as determined by the annual valuation of the actuary. Such amount shall be prorated among the State and the respective counties upon the basis of the payrolls as aforesaid and each shall pay its prorate share thereof.

“Section 6-92. Expense fund. The expense fund shall be the fund to which shall be credited all money provided by the State and counties to pay the administration expenses of the system, and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially, the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system. The expense shall be prorated among the State and the respective counties upon the basis of the total payroll of the employees of each who are included in the system, and each shall pay its prorata share thereof.

“Section 6-93. Minimum pension fund. The minimum pension fund shall be the fund from which the payments provided in section 6-68 shall be made. Appropriations made by the legislature for the purposes of section 6-68 shall be credited to the fund.

“Section 6-94. County contributions to minimum pension fund. The board of trustees shall certify to the councils of the several counties, from time to time as changes may occur, a list of retirants of the system who are retired employees of the respective counties and who were in the service of the respective counties for a total period of not less than ten years and who are receiving a service retirement allowance of less than \$30 per month, together with the amount of service retirement allowance the retirants are receiving, and a total

of the monthly additional sums necessary to increase the payments to \$30 per month.

“The councils of the several counties, upon certification to them by the board of the amounts necessary to meet the payments to their retired employees provided under section 6-68 shall forthwith remit the amount thereof to the director of finance who shall credit the amounts as received into the minimum pension fund. Remittances shall be made not later than December 30 of each year and shall be sufficient for twelve months’ payments to the retirants certified to the council. Remittances for any certified additions to lists shall be made forthwith, upon receipt of the certified additions for which remittances have already been made by the council for the list of retirants to which the additions are certified.

“**Section 6-96. Investments.** Investments may be made in:

“(1) Real estate loans and mortgages. Obligations (as defined in section 181-276) of any of the following classes:

“(A) Obligations secured by mortgages of non-profit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.

“(B) Obligations secured by mortgages insured by the federal housing administration.

“(C) Obligations for the repayment of home loans made under the Servicemen’s Readjustment Act of 1944 or under Title II of the National Housing Act.

“(D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed sixty and six-tenths per cent of the value of the real estate mortgaged to secure it, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed seventy-five per cent of the real estate mortgaged to secure it. Real estate shall not be deemed to be encumbered within the meaning of the subparagraph by reason of the existence of any of the restrictions, charges or claims described in section 181-283(a).

“(E) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed seventy per cent of the value of the respective improvements, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed seventy-five per cent of the value of the respective improvements.

“The board of trustees may retain such real estate (including leasehold interests therein) as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that (1) all such real estate (other than leasehold interests) shall be sold within five years after acquiring the same (subject to extension by the governor for additional periods not exceeding five years each) and

ACT 110

(2) all such leasehold interests shall be sold within one year after acquiring the same (subject to extension by the governor for additional periods not exceeding one year each).

“(2) Government obligations, etc. Obligations of any of the following classes:

“(A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing, provided that principal of and interest on such obligations are payable in currency of the United States.

“(B) Revenue bonds (whether or not permitted by any other provision hereof) of the State or any municipal or political subdivision thereof (including the board of water supply of the city and county of Honolulu), and street or improvement district bonds of any district or project in the State.

“(C) Obligations issued or guaranteed by any federal home loan bank (including consolidated federal home loan bank obligations), the home owner's loan corporation, or the federal national mortgage association.

“(3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:

“(A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred and fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred and fifty per cent of its fixed charges for such year.

“(B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in clause (A) above.

“(C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in clause (A) above.

“As used in this subsection, the terms ‘fixed charges’ and ‘net earnings available for fixed charges’ shall have the meanings and application ascribed

thereto in sections 181-276 and 181-277.

“(4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof, provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.

“(5) Obligations eligible by law for purchase in the open market by federal reserve banks.

“(6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development or by the Inter-American Development Bank.

“(7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.

“(8) Other securities. Securities and stock in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing subsections (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system.

“**Section 6-97. Service charges.** The board of trustees may pay out of any of the several funds held for investment, a reasonable amount to any person for servicing and handling of mortgages purchased by the board or for supplying investment advisory or consultative services; and to meet such other costs incident to the prudent investment of system funds as the board may approve.

“**Section 6-98. Power to make agreements to protect securities on reorganization or otherwise.** Anything in this part to the contrary notwithstanding, the board of trustees may enter into an agreement or agreements for the purpose of protecting the interests of the system in securities held by the system, or for the purpose of reorganization of a corporation which issued securities so held, and deposit of securities thereunder with a committee or depositories appointed under the agreement, but the agreement and deposit must first be approved in writing by a majority of the members of the board with a statement of their reasons for such approval. The board may accept corporate stock or bonds or other securities, which may be distributed pursuant to any such agreement approved as aforesaid or to any plan or reorganization approved in writing by a majority of the members of the board with a statement of their reasons for such approval. But if securities so received consist in whole or in part of stock in any corporation or of bonds or obligations which are not secured by adequate collateral security or where less than two-thirds of the total value of the required collateral security therefor consist of collateral other than stock, then any stock and any such bond or obligation so received shall be disposed of within five years from the time of acquisition or before expiration of such further period or periods of time as may be fixed in writing for that purpose by the governor.

“Section 6-99. Determination of employer normal and accrued liability contributions. “(a) On a basis of regular interest and of such mortality and other tables as are adopted by the board of trustees, the actuary engaged by the board shall determine the normal cost for the year beginning July 1, 1964, the unfunded accrued liability as of that date, and the accrued liability contribution for the year:

“(1) The normal cost for the year beginning July 1, 1964, shall be the amount determined by applying the normal contribution rate for the year to the aggregate annual amount of compensation as of March 31, 1964. The normal contribution rate for the year beginning July 1, 1964, shall be the constant percentage of the compensation of the average new entrant, which, if contributed on the basis of his compensation throughout his prospective period of service and added to his prospective contribution, will be sufficient to provide for the payment of any benefits payable on his account.

“(2) The unfunded accrued liability as of July 1, 1964, shall be determined by subtracting from the present value of future benefits payable on account of present members and beneficiaries the sum of the present value of future normal costs payable with respect to present members, the present value of future contributions payable by present members, and the applicable assets.

“(3) The accrued liability contribution for the year beginning July 1, 1964, shall be the level annual payment required to liquidate the unfunded accrued liability over a period of fifty years beginning on that date.

“(b) The actuary shall, through successive valuations, recalculate the normal cost for each year after June 30, 1965, the unfunded accrued liability as of the beginning of such year, and the accrued liability contribution for the year:

“(1) The normal cost for each such year shall be the amount determined by applying the normal contribution rate for the year to the aggregate annual amount of compensation as of March 31 of the preceding year. The normal contribution rate for any year after June 30, 1965, shall be determined by subtracting from the present value of future benefits payable on account of members and beneficiaries as of the beginning of the year the sum of the present value of future contributions payable by such members, the unfunded accrued liability and the applicable assets, and spreading the remainder over the prospective service of the members as a constant percentage of their future earnable compensation.

“(2) The unfunded accrued liability as of the beginning of any such year shall be determined by adding to the previous unfunded accrued liability interest for one year and subtracting from the total the sum of any contribution made in the previous year in excess of the normal cost for that year plus interest to the end of the year. The unfunded accrued liability as of the beginning of a year may, at the discretion of the board, be increased by any additional liability with respect to service rendered in previous years that may have been created since the determination of the unfunded accrued liability as of July 1, 1964.

“(3) The accrued liability contribution for such year shall be the level annual payment required to liquidate the unfunded accrued liability as of the be-

ginning of the year over the remainder of the period of fifty years which began July 1, 1964.

“(c) Notwithstanding any other provision of this chapter to the contrary, the accrued liability on account of Act 175, Session Laws of 1961, may be liquidated, with the approval of the board, by crediting thereto the unobligated balance of the reserve for future interest deficits accumulated through appropriations heretofore made by the State and by future earnings on system investments, exclusive of capital gains taken prior to July 1, 1964, in excess of the regular rate until such time as such accrued liability with regular interest has been fully paid. After June 30, 1964, the earnings on investments shall include capital gains, whether realized or unrealized in the value of the retirement system assets as taken from time to time thereafter by the board.

“**Section 6-100. Amount of annual contributions by the State and counties.** The contribution payable in each year to the pension accumulation fund by the State and by each county, respectively, shall be determined by allocating the sum of the normal cost and the accrued liability contribution in the same proportion as the aggregate annual amount of compensation of State and county members as of March 31 of the year preceding the appropriation of said contribution.

“**Section 6-101. State appropriations for system.** Before October 2 in every year, the board of trustees shall certify to the governor the appropriation necessary to pay to the various funds of the system the amounts payable by the State under this part for the fiscal year, beginning July 1 of the year next following, and items of appropriation providing such amounts shall be included in the general appropriation bill when it is presented to the legislature for final passage.

“**Section 6-102. Contributions by certain State agencies.** Each of the departments and agencies hereinafter described shall reimburse the State for the respective amounts payable by the State to cover the liability of the State to the various funds of the system on account of the employees in such departments and agencies. This provision shall apply to any department or agency of the State which is authorized by law to fix, regulate and collect rents, rates, fees or charges of any nature. The provisions herein shall not apply as to rental units receiving federal subsidies until approval has been obtained from the appropriate federal agency.

“Whenever any department or agency of the State receives federal-aid funds which may be expended for the purpose of covering the liability of the State to the various funds of the system, the department or agency shall set aside a portion of these funds sufficient to cover the amount of the State’s liability to the various funds of the system on account of the employees in the department or agency whose compensation is paid in whole or part from federal funds.

“The amount payable by each department or agency of the State covered by this section shall be determined at least quarterly by the department of budget and finance on the basis of the payroll of the employees of the department

or agency who are members of the system in the same manner the allocation of employer contributions is determined in section 6-100. The comptroller of the State or any department or agency having control of its own funds shall, upon information furnished by the department of budget and finance, issue a warrant for the proper amount to the system, charging the same to the appropriate fund. The system shall place all such sums to the credit of the State as part payment of the State's contributions to the various* of the system.

“Section 6-103. Certification and payment of county contributions to system. Except as otherwise provided in section 6-94, the board of trustees shall certify annually to the councils of each county and to the director of finance and comptroller of the State the amount due from such county on account of its employees who are members of the system, segregated between the respective funds of the county out of which the compensation the employees is paid and the director of finance shall pay the amount to the board, and the board shall credit the amount to the appropriate fund or funds of the system. The payments shall be made out of the special fund for the county hereinafter provided for, upon warrants of the comptroller. The councils of each county shall include in its annual budget for the fixing of the real property tax rate for the county, under the item designation as '(5) county contributions to the employees' retirement system of the State', the amount certified to it by the board as due from the county for the year, including in the budget proper deductions from or additions to such amount as hereinafter provided and offsetting against such amount, in the budget, the amount of other funds, if any, by the board estimated to be available for and intended to be applied on account of the total amount due from the county. The amount shall be paid by the county into the State treasury before April 2 of the calendar year out of county funds available for the payment of payrolls, on the basis of the segregation certified to the county by the board, and the State director of finance shall place the amount in a special fund for the county. If the amount or any portion thereof is not paid by the county before April 2, the director of finance shall retain out of the real property tax money collected for the year a sum equal to the amount or portion thereof not so paid. All the moneys retained and collected by the director of finance shall be deposited in a special fund for such county. Payments on account of the obligations of each county shall be made out of the fund. The amount of any excess or deficiency in the fund in meeting the obligations shall be subtracted from or added to, as the case may be, the amount due from the county for the succeeding year. The comptroller and director of finance shall, in the month of January of each year, transmit to the treasurer or director of finance of each county a joint statement showing the amounts of receipts by and payments out of the special fund for the county and the amount of the excess or deficiency, if any.

“Section 6-104. Guaranty. Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves and pension reserves as provided for the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under this part, and all expenses in connection with the administra-

* So in original

tion and operation of the system are made obligations of the State and of the respective counties. All income, interest and dividends derived from deposits and investments authorized by this part shall be used for the payment of such obligations. After June 30, 1964, the income shall include capital gains or losses, whether realized or unrealized, in the value of the retirement system assets as taken from time to time thereafter by the board of trustees. Any amount derived therefrom, which, when combined with appropriation requirements as certified by the board under the provisions of this part, would exceed the amount required to provide for such obligations, may be used to reduce the appropriations otherwise required. It is hereby declared that any and all sums contributed or paid from whatever source to the system for the funds created by this part, and all funds of the system including any and all interest and earnings of the same, are and shall be held in trust by the board for the exclusive use and benefit of the system and for the members of the system and shall not be subject to appropriation for any other purpose whatsoever.

“E. SPECIAL BENEFITS FOR MEMBERS IN MILITARY SERVICE

“Section 6-110. Definitions. As used in sections 6-110 to 6-121:

“‘Servicemen’s Act’: includes section 6-111 and any other act extending benefits similar to those of the section to other classes of persons in essential war services.

“‘Service member’: a member of the system who is entitled to the benefits provided by the Servicemen’s Act.

“‘Service in the armed forces’: active service (1) in military service, as defined in section 6-111, or (2) in any other essential war service covered by the Servicemen’s Act.

“Section 6-111. Service credit; payment of contributions. Every active member of the system who leaves his regular position or employment for the purpose of entering the military service (which term as used in this section shall include national guard, air, naval and coast guard services) of the United States after June 24, 1950, shall, so long as he remains in military service, be allowed service credit in the system to the same extent as if he were continuously in the active service of the State or a county, as the case may be, in the position which he held immediately prior to his entry into military service.

“The State or county, as the case may be, in whose service the member was employed immediately prior to his induction into military service shall, so long as he remains in military service, pay all contributions both to the pension accumulation fund and to the annuity savings fund, and any other payment to the system, which would otherwise be payable to the system by the State, the county, or the member if he were continuously in the active service of the State or county, as the case may be.

“Section 6-112. Benefits and conditions applicable to service member.

All service members shall by reason of their retention of membership in the system under the Servicemen’s Act, have the status, be entitled to the benefits, and be subject to the conditions and limitations set forth in sections 6-110 to 6-121.

ACT 110

“Section 6-113. Service retirement benefit. If a service member has terminated his service with the armed forces and otherwise complies with the requirements of section 6-52, he shall be entitled to a service retirement benefit to be computed as provided in section 6-53, including and taking into consideration the service credit preserved and allowed to him by the Servicemen’s Act.

“Section 6-114. Ordinary disability retirement benefit. If a service member terminates his service in the armed forces and complies with and fulfills the requirements of section 6-54, including and taking into consideration the service credit preserved and allowed to him under the Servicemen’s Act, he shall be entitled to the ordinary disability retirement benefit prescribed in section 6-54, computed as provided in section 6-55, including and taking into consideration the service credit preserved and allowed to him under the Servicemen’s Act.

“Section 6-115. Accidental disability benefit. Any member who has been incapacitated for duty by accident, act of war, or otherwise, occurring while he is not in the service of the State or any county, shall not by reason of such incapacity be entitled to the accidental disability benefit provided for by sections 6-56 and 6-58, but in such event if he can qualify for an ordinary disability retirement benefit as hereinabove provided, he shall receive the ordinary disability retirement benefit.

“Section 6-116. Ordinary death benefit. If any service member dies, the ordinary death benefit provided in section 6-65 shall be paid to his estate or his designated beneficiary.

“Section 6-117. Accidental death benefit. The estate or designated beneficiary of a service member who dies by accident, act of war, or other cause, occurring while he is not in the service of the State or any county, shall not be entitled to the accidental death benefit provided by section 6-66; however, the estate or the beneficiary shall be entitled to the ordinary death benefit as provided in section 6-116.

“Section 6-118. Return of contributions. Any service member may resign from the system at any time, if he so chooses, and upon such resignation he shall be entitled to the return of his accumulated contributions as provided in section 6-75, including any amount to his credit in the annuity savings fund which shall have been contributed by the State or any county under the Servicemen’s Act, but he shall cease to be entitled to any of the benefits of the Servicemen’s Act or of sections 6-110 to 6-121, except the return of accumulated contributions, upon the effective date of his resignation.

“Section 6-119. Duration of service member’s status. A service member shall continue to be entitled to the benefits of the Servicemen’s Act until the expiration of ninety days after the termination of his service in the armed forces unless he shall within the ninety-day period have reentered the service of the State or any county, in a position which constitutes him an employee as defined by section 6-20, in which latter event his status thenceforth shall be the same as that of any other regular member of the system in the service without

any loss of the service credit preserved and allowed to him under the Servicemen's Act, or unless he shall have resigned before the expiration of the ninety-day period and waived his right to such reemployment. In the event he fails to reenter the service of the State or any county within the ninety-day period, and shall not have resigned from the system and waived his right to reemployment, his status thereafter shall be the same as that of a regular member who terminated his employment as such an employee and such termination shall be deemed to have occurred on the ninetieth day after the termination of his service in the armed forces.

"If a service member voluntarily prolongs his period of military service beyond the expiration date of his enlistment or the period for which he was inducted or the period for which he was ordered to active duty, he shall be deemed, for the purpose of this section, to have terminated his service in the armed forces upon the ninetieth day following the date of expiration of such enlistment or the period for which he was inducted or the period for which he was ordered to active duty, if such extension is for ninety days or more, or upon the actual date of termination, if the extension is for less than ninety days.

"Section 6-120. Computation of compensation earned or earnable. In any case where it shall become necessary, for the purposes of sections 6-110 to 6-121, to determine the compensation or average compensation of a member of the system during any period of his service in the armed forces, or during any period (not exceeding ninety days) immediately thereafter while he was not an employee as defined in section 6-20, his rate of compensation during any such period shall, for the purposes of sections 6-110 to 6-121, be deemed to have been that which he was receiving as such an employee immediately prior to the inception of his service in the armed forces without any of the additional increments for length of service provided for by any classification or other law.

"Section 6-121. Right of amendment or repeal reserved; retroactive effect. The provisions of sections 6-110 to 6-121 shall not be deemed to constitute a contract with any service member and the legislature reserves the right to amend or repeal the sections at any time as to any benefit or allowance not accrued prior to the time of the amendment or repeal.

"The sections shall apply retroactively, as well as prospectively, to all persons entitled to the benefits of the Servicemen's Act."

SECTION 2. Part VII of Chapter 6, Revised Laws of Hawaii 1955, as amended, is hereby repealed.

SECTION 3. Notwithstanding the adoption of Act 16, Session Laws of Hawaii 1968, this Act shall have full force according to its intent. Upon the taking effect of this Act or the Hawaii Revised Statutes, whichever occurs later, this Act shall be construed to be in amendment of or in addition to the Hawaii Revised Statutes, all references in this Act being construed to refer to the applicable or corresponding provisions of the Hawaii Revised Statutes.

The revisor of statutes may reword and renumber the references in this Act and make such other formal or verbal changes as may be necessary to conform with the Hawaii Revised Statutes.

ACT 110

SECTION 4. Any Act relating to the Employees' Retirement System passed by the Fifth Legislature during the Regular Session of 1969 shall be effective according to its terms, notwithstanding the passage of this Act and any provision contained in this Act which is contrary to such Act shall be amended to conform with such Act, regardless of the date of adoption or the effective date of any such Act. The revisor of statutes is authorized to disregard any sections in the Hawaii Revised Statutes, or the Revised Laws of Hawaii, as amended, affected by any such Act and to incorporate the terms of such Act or Acts into their appropriate place in this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 23, 1969.)