

## ACT 82

H.B. NO. 193

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. Section 88-82, Hawaii Revised Statutes, is amended to read:

**"Sec. 88-83 Election of mode of retirement allowance.** (a) 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 88-74, 88-76, 88-79, or 88-80 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 his 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

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\*Edited accordingly.

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.

In the event of the death of the retirant 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.

(b) Section 88-84 to the contrary notwithstanding, in the event of the death of a member due to a terminal illness within thirty days after the date of the filing of his written application to retire, the designated beneficiary, otherwise the personal representative of his estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of his retirement; provided that:

- (1) It is proved that the deceased member was not notified by his licensed attending physician of the terminal nature of his illness more than thirty days prior to his death; and
- (2) The licensed attending physician was aware of the terminal nature of the disease more than thirty days before the death of the member but deemed it advisable for the mental or physical well-being of his patient not to notify him of the terminal nature of the illness.

(c) The board may prescribe the form of an affidavit to be filled out by the licensed attending physician; provided, that the form shall contain the following information and such other information as required by the board:

- (1) The date when the licensed attending physician discovered the nature of the terminal illness;

- (2) The terminal illness involved;
- (3) The date when the member was notified of the nature of the terminal illness; and
- (4) The date of death of the deceased member.

If the facts stated in the affidavit conform with all of the requirements of this section, and a licensed physician verifies the cause of death as being due to the terminal disease identified by the licensed attending physician in his affidavit, then the board shall provide benefits in accordance with the optional mode of retirement selected by the member prior to his death.

Any election of a mode of retirement shall be irrevocable.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 12, 1977.)

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\*Edited accordingly.