

ACT 115

S.B. NO. 1447

A Bill for an Act Relating to Employees' Retirement System.

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

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to part II, subpart C, to be appropriately designated and to read as follows:

**“§88- Third application for retirement; withdrawal prohibited and retirement mandatory.** If a member:

- (1) Has submitted two separate written applications for service retirement but has withdrawn each of the applications prior to the dates of retirement specified in the applications; and
  - (2) Submits a third written application for service retirement;
- during the member's lifetime, the member shall not be allowed to withdraw the third application and shall be retired on the date specified in the third application.”

SECTION 2. Section 88-73, Hawaii Revised Statutes, is amended to read as follows:

**“§88-73 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, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, 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. In the event of the death of a member after the date of the filing of the member's written application to retire, the designated beneficiary, otherwise the personal representative of the member's 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 the member's retirement.
- (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.
- (4) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which he elected to retire, as provided by section 88-61(c), after attaining an allowance of [75] seventy-five per cent of his average final compensation shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but he shall not receive a retirement allowance until he leaves active service; however, upon his leaving active service he shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90 which post retirement allowances shall be computed from the date of the election as though he had left active service on that day.”

SECTION 3. Section 88-83, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Subsection 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,<sup>1</sup> 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 provided 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 4. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

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

(Approved May 26, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.