

## ACT 104

S.B. NO. 3101

A Bill for an Act Relating to the 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 be designated and to read as follows:

**“§88- Benefit limitations.** (a) Notwithstanding any other law to the contrary, the benefits payable to all employees who first become members on or after January 1, 1990, shall be subject to the limitations set forth in section 415 of the Internal Revenue Code of 1986, as amended.

(b) Notwithstanding any other law to the contrary, the benefits payable to all employees who first became members before January 1, 1990, shall be subject to the greater of the following limitations as provided in section 415(b)(10) of the Internal Revenue Code of 1986, as amended:

- (1) The limitations set forth in section 415 of the Internal Revenue Code of 1986, as amended; or
- (2) The benefit of the member without regard to any benefit increases pursuant to an amendment adopted after October 14, 1987.”

SECTION 2. Part II of chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§88- Credit for mandatory maternity leave.** Any member of the system who was required to take mandatory maternity leave prior to July 1, 1973, may be credited up to four years of membership service credit for mandatory maternity leave; provided that the maximum credit for each pregnancy shall be limited to twelve months.

A member's maternity leave shall be considered service in the member's occupation at the time the leave was taken and may be credited in accordance with section 88-59 or 88-272.

Any retirant, who returns to employment and is reenrolled as a member of the system and who has at least three years of credited service in the system during the period of reemployment, may be credited with membership service credit for maternity leave as provided in this section.”

SECTION 3. Section 88-251, Hawaii Revised Statutes, is amended to read as follows:

**“§88-251 Applicability.** The following provisions of part II of this chapter shall apply to this part:

- (1) Subpart A, except the definitions provided in section 88-21, unless expressly adopted in section 88-261;

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- (2) Subpart B, except sections 88-45, 88-46, 88-48, and 88-52 to 88-62;
- (3) Subpart C, except sections 88-71 to 88-78, 88-80, 88-81, 88-83 to 88-85, 88-87 to 88-89, 88-96, 88-97, and 88-98;
- (4) Subpart D, except sections 88-112 and 88-113; and
- (5) Subpart E, except sections 88-134 to 88-139.”

SECTION 4. Section 88-272, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[~~§88-272~~]]] Credited service. Credited service includes:~~

- (1) Service by an employee rendered since becoming a member;
- (2) Service credited under part II [of this chapter] as a class A or class B member for members who make the election described in section 88-271(a);
- (3) Service for members who return to service in the manner described in section 88-271(b);
- [(4)] (4) Service rendered prior to becoming a class C member in any of the categories described in section 88-51 which is not included in any of the above; provided that such service shall be credited by purchase at any time after January 1, 1985, and after completing five years of service as a class C member, in the following manner:
  - (A) If the member had withdrawn the member's accumulated and post retirement contributions, by paying to the system in a nonrefundable lump sum an amount equal to eight per cent interest compounded annually on any accumulated and post retirement contributions previously withdrawn, for the period from the date of withdrawal to the date of purchase; or
  - (B) If the member has not made contributions to the system with respect to the previous service, by paying to the system in a nonrefundable lump sum an amount equal to eight per cent interest compounded annually multiplied by the product of seven and eight-tenths per cent of the member's current annual salary at the time of purchase, for the period from the date the employee contribution should have been made to the date of purchase;
- (5) [(4)] Service in the armed forces as provided by subpart E of part II; [of this chapter; and] provided that such service shall be credited at no cost upon certification by the system;
- (5) Mandatory maternity leave as provided in part II; provided that such service shall be credited at no cost upon certification by the system;
- (6) Service rendered prior to becoming a class C member as described in section 88-51 that is not included in paragraphs (1) to (5); provided that the service shall be credited at no cost. Upon certification by the system, that service shall be credited at the rate of one month of service credit for each month of service rendered following the return to membership; and
- [(6)] (7) Unused sick leave as provided in section 88-63; provided that any [such] additional service credit shall not be used in determining eligibility for retirement or for any other purpose as a class C member.”

SECTION 5. Noncontributory members who purchased service after June 30, 1989, shall be refunded the cost of the purchase by December 31, 1990.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved June 1, 1990.)

**Note**

1. Edited pursuant to HRS §23G-16.5.