

## ACT 136

H.B. NO. 816

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

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

SECTION 1. The legislature finds that Act 241, Session Laws of Hawaii 1996, increased from eight to ten years the number of years of credited service required for a former member of the armed services to qualify for up to two years of membership service credit under the employee's retirement system. There was no grandfathering provision to protect those persons already working for the State or counties who had made personal plans based on the eight-year requirement. The legislature finds that it is unfair to require someone who had a reasonable expectation of being able to obtain two years of credited service for retirement purposes after providing eight years of service, to work an additional two years because of this change in the law.

The purpose of this Act is to correct this oversight and allow employees hired before June 18, 1996 (the effective date of Act 241), to acquire up to two years of military service credit for retirement system purposes after eight years of service.

SECTION 2. Section 88-132.5, Hawaii Revised Statutes, is amended to read as follows:

**“§88-132.5 Credit for military service.** (a) Any [member of the system who] employee who becomes a member of the system in accordance with section 88-42 after June 17, 1996, and has rendered honorable active military service in the armed forces of the United States [and who has ten years of credited service in the system], may be credited with membership service credit for active military service of up to four years or the actual number of years of active military service, whichever is less, as follows:

- (1) Any member with ten years of credited service in the system may be credited with up to two years of membership service credit;
- (2) Any member with twenty years of credited service in the system may be credited with up to three years of membership service credit; and
- (3) Any member with twenty-five years of credited service in the system may be credited with up to four years of membership service credit.

(b) Any employee who became a member of the system in accordance with section 88-42 before June 18, 1996, and has rendered honorable active military service in the armed forces of the United States, may be credited with membership service credit for active military service of up to four years or the actual number of years of active military service, whichever is less, as follows:

- (1) Any member with eight years of credited service in the system may be credited with up to two years of membership service credit;
- (2) Any member with twenty years of credited service in the system may be credited with up to three years of membership service credit; and
- (3) Any member with twenty-five years of credited service in the system may be credited with up to four years of membership service credit.

(c) For the purposes of subsections (a) and (b), the latest membership date shall be used if there is a change in membership date due to termination and re-entry into the system.

[(b)] (d) Any retirant who returns to employment, is reenrolled as a member of the system, and has at least three years of credited service in the system during the period of reemployment may be credited with membership service credit for active

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military service as provided in subsection (a)[;] or (b); provided that membership service credit shall be based upon the member's total service.

[(c)] (e) Active military service in the military reserve or national guard is not considered active military service unless in time of war or declared national or state emergency. Membership service creditable under this section shall be credited in accordance with sections 88-59 and 88-272.

[(d)] (f) A contributory member's active military service shall be considered service in the member's occupation at the time that service is credited and shall be purchased at the rate specified in section 88-45, and the retirement allowance provided by that service shall be calculated as provided in section 88-74.

[(e)] (g) Any violation of this section shall result in the forfeiture of the amount of the purchase of membership service and loss of benefits and membership service credit for military service."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall be effective retroactive to June 18, 1996.

(Approved June 16, 1997.)