

ACT 374

H.B. NO. 139

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

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

SECTION 1. Section 88-21, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

“‘Legislative officer’ means a chief clerk, an assistant chief clerk, a sergeant at arms, or an assistant sergeant at arms of either house of the legislature.’”

2. By amending the definition of “elective officers, elective officials” to read:

“[‘Elective officers, elective officials’:] ‘Elective officer’ or ‘elective official’; any person elected to a public office[,] or appointed to fill a vacancy of an elective office, except as a delegate to a constitutional convention, member of the board of education or trustee of the office of Hawaiian affairs, in accordance with an

election duly held in the State or counties under chapter 11; provided that the person receives compensation, pay, or salary for such office.”

SECTION 2. Section 88-74, Hawaii Revised Statutes, is amended to read as follows:

“**§88-74 Allowance on service retirement.** Upon retirement from service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained age fifty-five, a retirement allowance of two per cent of the member’s average final compensation multiplied by the total number of years of the member’s credited service as a class A and B member, ~~excluding any credited service as an elective officer or legislative officer, plus a retirement allowance of one and one-fourth~~ per cent of the member’s average final compensation multiplied by the total number of years of prior credited service as a class C member; provided that:
 - (A) 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 firefighter, police officer, or an investigator of the department of the prosecuting attorney;
 - (B) After June 30, 1977, 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 corrections officer;
 - (C) After June 16, 1981, 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 an investigator of the department of the attorney general;
 - (D) After June 30, 1989, 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 narcotics enforcement investigator;
 - (E) After June 30, 1992, if the member has at least ten years of credited service, a part of which is credited as a corrections officer or narcotics enforcement investigator; provided the member is employed with the department of public safety, is promoted or accepts a position as a public safety investigations staff investigator, and retires from that department;
 - (F) After December 31, 1993, 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 water safety officer; and
 - (G) After June 30, 1994, if the member has at least ten years of credited service, a part of which is credited as a public safety investigative staff investigator and the member is employed with the department of public safety and retires from that department; then for each year of service as a firefighter, police officer, corrections officer, investigator of the department of the prosecuting attorney, investigator of the department of the attorney general, narcotics enforcement investigator, water safety officer, or public safety investigations staff investigator, the retirement allowance shall be two and one-half per cent of the member’s average final compensation. The maximum retirement allowance for those members shall not exceed eighty per cent of the member’s average final compensation. If the member has not attained age fifty-five, the member’s retirement allowance shall be computed as though the member had attained age fifty-five, reduced

in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; provided that no reduction shall be made if the member has at least twenty-five years of credited service as a firefighter, police officer, corrections officer, investigator of the department of the prosecuting attorney, investigator of the department of the attorney general, narcotics enforcement investigator, public safety investigations staff investigator, sewer worker, or water safety officer, of which the last five or more years prior to retirement is credited service in such capacities;

- (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 88-72, the member may accept refund at the time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in paragraph (1), an annuity that is the actuarial equivalent of the additional contributions with regular interest; [or]
- (3) If the member has credited service as a judge, [an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature,] the member's retirement allowance shall be computed on the following basis:
 - (A) Irrespective of age, for each year of credited service as a judge, [an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature,] three and one-half per cent of the member's average final compensation in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of such service; and
 - (B) For all other credited service, as provided in paragraphs (1) [and (2).], (2) and (4). No allowance shall exceed seventy-five per cent of the member's average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in subparagraph (A), and the portion of the accumulated contributions specified in that subparagraph in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this paragraph, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of the member's average final compensation[.]; or

- (4) If the member has credited service as an elective officer or as a legislative officer, the member's retirement allowance shall be derived by adding the allowances computed separately under subparagraphs (A), (B), (C), and (D) as follows:
 - (A) Irrespective of age, for each year of credited service as an elective officer, three and one-half per cent of the member's average final compensation as computed under section 88-81(d)(1), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service; and
 - (B) Irrespective of age, for each year of credited service as a legislative officer, three and one-half per cent of the member's average final compensation as computed under section 88-81(d)(2), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service;

- (C) Irrespective of age, for each year of credited service as a judge, three and one-half per cent of the member's average final compensation as computed under section 88-81(d)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service; and
- (D) For each year of credited service not included in subparagraph (A), (B), or (C), the average final compensation as computed under section 88-81(d)(4) shall be multiplied by two per cent, two and one-half per cent, or one and one-quarter per cent, as applicable to the credited service earned as a class A, B, or C member, respectively.

The total retirement allowance shall not exceed seventy-five per cent of the member's highest average final compensation calculated under section 88-81(d)(1), (2), (3), or (4). If the allowance exceeds this limit, it shall be adjusted by reducing any annuity accrued under subparagraphs (A), (B), and (C) and the portion of the accumulated contributions specified in these subparagraphs in excess of the requirements of the reduced annuity shall be returned to the member. If a member has service credit as an elective officer or as a legislative officer in addition to service credit as a judge, then the retirement benefit calculation contained in this paragraph shall supersede the formula contained in paragraph (3)."

SECTION 3. Section 88-76, Hawaii Revised Statutes, is amended to read as follows:

“§88-76 Allowance on ordinary disability retirement. Upon retirement for ordinary disability, a member shall receive a retirement allowance of one and three-fourths per cent of the member's average final compensation for each full year of credited service; except that for each year of credited service as a judge, an elective officer, or [the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of a house of the legislature,] a legislative officer, the member shall receive a retirement allowance computed as provided in section 88-74(3)[(A).] or (4), as applicable. The minimum retirement allowance payable under this section shall be thirty per cent of the member's average final compensation.”

SECTION 4. Section 88-81, Hawaii Revised Statutes, is amended to read as follows:

“§88-81 Average final compensation. (a) Average final compensation is (1) for employees who have become members prior to January 1, 1971, the average annual compensation pay or salary upon which a member has made contributions as required by sections 88-45 and 88-46, (A) during [his] the member's five highest paid years of credited service, (B) at the option of the member, during [his] the member's three highest paid years of credited service; provided that no payment of salary in lieu of vacation shall be included in the computation, or (C) if [he] the member has less than three years of credited service, then during [his] the member's actual years of credited service; or (2) for employees who become member¹ on or after January 1, 1971, the average annual compensation pay or salary upon which a member has made contributions as required by sections 88-45 and 88-46, (A) during [his] the member's three highest paid years of credited service; provided that no payment of salary in lieu of vacation shall be included in the computation, or (B) if [he] the member has less than three years of credited service, then during [his] the member's actual years of credited service.

(b) In computing the compensation of a judge, the compensation paid to [him] the judge by the United States as well as by the Territory shall be included.

(c) For service rendered as a member of the legislature from and after November 5, 1968, the actual annual salary of a member shall be the only amount used for determining the member's average final compensation. For service rendered as a member of the legislature prior to November 5, 1968, and after admission of this State into the Union, the annual compensation of a member shall be computed, for the purpose of determining the member's average final compensation, as follows: during a year in which a general session was held, it shall be deemed to have been an amount equal to four times the salary of a member of the legislature for a general session; and during a year in which a budget session was held, it shall be deemed to have been 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] the member's term of office.

(d) If a member has credited service rendered as an elective officer or as a legislative officer, the member's average final compensation shall be computed separately for each category of service as follows:

- (1) For the three highest paid years of credited service as an elective officer, or if the member has less than three years of credited service in that capacity, then the member's actual years of credited service;
- (2) For the three highest paid years of credited service as a legislative officer, or if the member has less than three years of credited service in that capacity, then the member's actual years of credited service;
- (3) For the three highest paid years of credited service as a judge, or if the member has less than three years of credited service in that capacity, then the member's actual years of credited service; and
- (4) For the three highest paid years of credited service not included in paragraph (1), (2), or (3), or if the member has less than three years of credited service in that capacity, then the member's actual years of credited service.'

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1997; provided that with respect to:

- (1) Current elective officers and legislative officers as defined in section 1 of this Act, who are members of the employees' retirement system, the member's benefits accrued up to November 3, 1998, shall not be diminished or impaired; and
- (2) Other individuals who are members of the employees' retirement system and who accrued benefits as elective officers or legislative officers as defined in section 1 of this Act, before July 1, 1997, the member's benefits accrued up to June 30, 1997, shall not be diminished or impaired.

(Approved July 7, 1997.)

Note

1. Prior to amendment “members” appeared here.