

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 to part II a new section to be appropriately designated and to read as follows:

“**§88- Accidental death claims.** (a) An application for service-connected accidental death benefits may be filed with the board by or on behalf of the claimant as specified in sections 88-85 and 88-286. The application shall be filed no later than two years from the date of receipt of the written notification from the system.

(b) If a claim is filed, the system shall obtain the following:

- (1) A copy of the employer's report of the accident submitted by the employer to the department of labor and industrial relations, workers' compensation division, and other reports relating to the accident;
- (2) A certified statement from the head of the department in which the deceased member was employed, stating the date, time, and place of the accident, and the nature of the service being performed when the accident occurred. The statement shall also include an opinion as to whether or not the accident was the result of wilful negligence on the deceased member's part;
- (3) A copy of the latest position description of the deceased member's duties and responsibilities;
- (4) A certified copy of the death certificate; and
- (5) A copy of an autopsy report, if performed.

(c) If the medical board certifies that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or that the death was due to the result of some occupational hazard, the board shall decide that the death was the result of an accident in the performance of duty and not caused by wilful negligence on the part of the member.

(d) Upon approval, benefits shall be paid effective the date the claim was filed with the system, in accordance with sections 88-85 and 88-286.’’

SECTION 2. Section 88-83.5, Hawaii Revised Statutes, is amended to read as follows:

“**[[§88-83.5]] 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.

(c) The system shall establish a benefit restoration plan for the payment of retirement benefits as permitted under section 415(m) of the Internal Revenue Code of 1986, as amended, as follows:

- (1) All retired members and beneficiaries of the system whose pension has been limited by section 415 of the Internal Revenue Code shall receive a monthly benefit from the plan established pursuant to this subsection that is equal to the difference between the retirement benefit otherwise payable and the retirement benefit payable because of section 415 of the Internal Revenue Code of 1986, as amended;
- (2) Participation in the plan shall be determined for each plan year and shall cease whenever the retirement benefit is not limited by section 415 of the Internal Revenue Code of 1986, as amended;
- (3) The plan shall be funded on a plan-year-to-plan-year basis and shall not be used to pay any benefits payable in future years. Upon the recommendation of the system's actuary, the required contribution amount shall be determined by the board of trustees and deposited in a separate fund from an allocation of employer contribution amounts pursuant to this chapter;
- (4) The board of trustees shall administer the plan and may make modifications to the benefits payable as may be necessary to maintain the qualified status of the plan under section 415(m) of the Internal Revenue Code of 1986, as amended."

SECTION 3. Section 88-87, Hawaii Revised Statutes, is amended to read as follows:

**“§88-87 Adjustment for deficiency in accumulated contributions.** Upon retirement, the maximum retirement allowance of any member whose accumulated contributions are deficient shall be reduced by an amount which is the actuarial equivalent of the amount of the deficiency. A deficiency shall be the amount by which a member's accumulated contributions fail to equal the accumulated contributions which would be standing to the member's account had the member contributed at the full rate required by law [without reduction through withdrawals or advances]. [Anticipated deficiencies] Deficiencies may be [repaid] paid by the member in advance of retirement, in which case [regular interest shall be computed to date payment is received in determining the amount of the deficiency.] the member's retirement allowance shall not be reduced."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved June 14, 2000.)

**Note**

1. Edited pursuant to HRS §23G-16.5.