

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

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

SECTION 1. Section 88-3, Hawaii Revised Statutes, is amended to read as follows:

“§88-3 Payment on death of pensioner. Whenever any person receiving a pension from the State or from any county thereof dies, the amount next payable shall be prorated from the last payment date up to and including the date of death, and [effective] the prorated amount shall be paid to the person who may have been designated by the pensioner during the pensioner's lifetime in a statement filed with the officer charged with payment of the pension, or if no such designation has been made and filed, the prorated amount shall be paid to the personal representative of the estate of the pensioner; provided that:

- (1) Effective January 1, 2003, whenever a person receiving a pension from the [state retirement] system dies, the full monthly pension [shall be payable] for the month in which the pensioner [is deceased. The sum shall be paid to such person as may have been designated by the pensioner during the pensioner's lifetime in a statement filed with the officer charged with payment of the pension, or, if no such designation has been made and filed, then the amount so due shall be paid to the personal representative of the estate of the pensioner.] died, less any portion of the pension paid to the pensioner, shall be payable to the person who may have been designated by the pensioner during the pensioner's lifetime in a statement filed with the officer charged with the payment of the pension, or if no such designation has been made and filed, the prorated amount shall be paid to the personal representative of the estate of the pensioner; and
- (2) Effective July 1, 2003, whenever a person receiving a pension from the system dies, the full monthly pension for the month in which the pensioner died shall be payable to the pensioner.”

SECTION 2. Section 88-29, Hawaii Revised Statutes, is amended to read as follows:

“§88-29 Officers, employees, legal adviser. The board of trustees shall elect from its membership a chairperson, and by a majority vote of all its members, shall appoint an administrator and a chief investment officer who shall be exempt from chapter 76 and serve under and at the pleasure of the board. Effective July 1, 1992, the salary of the administrator shall be set by the board [within the range established for deputy directors.]; provided that the salary shall be set at not more than the salary of the governor as established under section 26-51. The board shall engage actuarial and other services as shall be required to transact the business of the system. The compensation for all services engaged by the board, and all other expenses of the board necessary for the operation of the system, shall be paid at rates and in amounts the board shall approve.

The attorney general or an appointed representative may serve as legal adviser to the board of trustees or the board of trustees may select its own legal counsel.”

SECTION 3. Section 88-73, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which the elective officer or judge makes an election to retire, as provided by section 88-61(c), after attaining an allowance of seventy-five per cent of the member’s average final compensation, shall be used as the date the member is eligible to receive a service retirement benefit. The elective officer or judge may continue in active service, but shall not receive a retirement allowance until termination of active service~~[-; provided further that upon].~~ Upon leaving active service, the elective officer or judge shall receive the retirement allowance [effective on the first day of a month following the member’s termination,] provided for in section 88-74, together with the post retirement allowances provided for in section 88-90[-,], effective on the first day of a month except the month of December when retirement benefits shall be effective on the first or last day of the month. Post retirement allowances shall be computed from the date of the election as though the elective officer or judge had left active service on that day.”

SECTION 4. 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 a judge, 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 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;
 - (F) After June 30, 1994, if the member has at least ten years of credited service, of which the last five or more years prior to retirement are credited service as a public safety investigations staff investigator; and

- (G) After June 30, 2002, if the member has at least ten years of credited service as a firefighter, and is deemed permanently medically disqualified due to a service related disability to be a firefighter by the employer's physician, and continues employment in a class A or B position other than a firefighter; 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 a refund as permitted by section 88-72, the member may accept the 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;
- (3) If the member has credited service as a judge, the member's retirement allowance shall be computed on the following basis:
- (A) For a member who has credited service as a judge before July 1, 1999, 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 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 a member who first earned credited service as a judge after June 30, 1999, for each year of credited service as a judge, 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. 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; or
- (C) For a judge with other credited service, as provided in paragraphs (1) and (2). 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; or

- (D) For a judge with credited service as an elective officer or as a legislative officer, as provided in paragraph (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 subparagraphs (A) and (B) and the portion of the accumulated contributions specified in the subparagraphs 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),]~~ 88-81(e)(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),]~~ 88-81(e)(2), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service;
- (C) If the member has credited service as a judge, the member's retirement allowance shall be computed on the following basis:
- (i) For a member who has credited service as a judge before July 1, 1999, 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),]~~ 88-81(e)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of such service; and
- (ii) For a member who first earned credited service as a judge after June 30, 1999, and has attained the age of fifty-five, 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),]~~ 88-81(e)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of such service. 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; 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)]~~ 88-81(e)(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. 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.

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);] 88-81(e) (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 5. Section 88-81, Hawaii Revised Statutes, is amended to read as follows:

“§88-81 Average final compensation. (a) Average final compensation is the average annual compensation pay or salary upon which a member has made contributions as required by sections 88-45 and 88-46.

(b) The average final compensation of members [~~retiring prior to January 1, 2003,~~] shall be calculated as follows:

- (1) For employees who become members prior to January 1, 1971:
 - (A) During the member's five highest paid years of credited service, including vacation pay, or the three highest paid years of credited service excluding vacation pay, whichever is greater; or
 - (B) If the member has less than three years of credited service, during the member's actual years of credited service.
- (2) For employees who become members on or after January 1, 1971:
 - (A) During the member's three highest paid years of credited service, excluding vacation pay; or
 - (B) If the member has less than three years of credited service, during the member's actual years of credited service.

~~[(e) The average final compensation of members retiring after December 31, 2002, shall be calculated as follows:~~

- ~~(1) For employees who become members prior to January 1, 1971:

 - (A) During the member's five highest paid calendar years of service including vacation pay, or the last sixty months of credited service including vacation pay, whichever is greater; or
 - (B) During the member's three highest paid calendar years of service excluding vacation pay, or the last thirty-six months of credited service excluding vacation pay, whichever is greater; or
 - (C) During the member's actual years of credited service, if the member has less than three years of credited service;~~
- ~~(2) For employees who become members on or after January 1, 1971:

 - (A) During the member's three highest paid calendar years of service excluding vacation pay or the last thirty-six months of credited service excluding vacation pay, whichever is greater; or
 - (B) During the member's actual years of credited service, if the member has less than three years of credited service; and~~
- ~~(3) If a member has credited service as a nine, ten, or eleven-month employee and is paid over twelve months,~~

- (A) ~~During the member's three highest paid school contract years of service; or~~
 (B) ~~During the member's actual years of credited service, if the member has less than three years of credited service.~~

~~(d)]~~ (c) In computing the compensation of a judge, the compensation paid to the judge by the United States as well as by the Territory shall be included.

~~[(e)]~~ (d) 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 the member's term of office.

~~[(f)]~~ (e) 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 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2003; provided that sections 1, 4, and 5 shall take effect retroactive to January 1, 2003.

(Approved June 2, 2003.)