

ACT 182

H.B. NO. 130

A Bill for an Act Relating to Pension and Retirement Systems.

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

SECTION 1. Section 88-83, Hawaii Revised Statutes, is amended to read as follows:

“§88-83 Election of mode of retirement allowance. (a) Maximum allowance: Upon retirement, any member may elect to receive the maximum retirement allowance to which the member is entitled computed in accordance with [~~the provisions described under~~] section 88-74, 88-76, or 88-80 and in the event of the member’s death, there shall be paid to the member’s beneficiary, otherwise to the member’s estate, the difference between the balance of the member’s accumulated contributions at the time of the member’s retirement and the retirement allowance paid or payable to the member prior to death.

In lieu of this maximum allowance, the member may elect to receive the member’s retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

Option 1: The member may elect to receive a lesser retirement allowance during the member’s lifetime. At the member’s retirement, there shall be established an amount of initial insurance [~~which~~] that shall be computed on the basis of actuarial factors adopted by the board of trustees. Upon the death of the retirant, any balance remaining in the initial insurance reserve, after deducting the retirement allowance paid to the retirant prior to death, shall be paid to the retirant’s beneficiary, otherwise to the retirant’s estate. In lieu of the lump sum balance, the beneficiary may elect to receive an allowance for life based on the value of the balance; provided that the allowance is not less than \$100 per month.

Option 2: The member may elect to receive a lesser retirement allowance during the member’s lifetime and have [~~sueh~~] those allowances, including cumulative post retirement, if applicable, continued after the member’s death to the member’s beneficiary during the lifetime of [~~sueh~~] the person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 3: The member may elect to receive a lesser retirement allowance during the member’s lifetime and have one-half of such allowance, including fifty per cent of all cumulative post retirement allowances, if applicable, continued after the member’s death to the member’s beneficiary during the lifetime of [~~sueh~~] that person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 4: The member may elect to receive a lesser retirement allowance during the member’s lifetime and provide some other benefit to the member’s beneficiary in accordance with the member’s own specification; provided that [~~sueh~~] this election shall be certified by the actuary to be the actuarial equivalent of the member’s retirement allowance and shall be approved by the board.

Option 5: The member may elect to receive the balance of the member’s accumulated contributions at the time of retirement in a lump sum and, during the member’s lifetime, a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirant, all further payments shall cease. Only a member retiring [~~for~~] from service having at least ten years of credited service or for disability may elect this mode of retirement.

To receive benefits, the beneficiary must have been designated by the member in [~~sueh~~] the form and manner [~~as-is~~] prescribed by the board.

In the event of the death of the retirant within one year after the date of retirement, the retirant’s beneficiary may elect to receive either the death benefits under the mode of retirement selected, or in lieu thereof, such benefits as would have been paid had the retirant died immediately prior to retirement, less any payments [~~which~~] that the retirant received.

Any election of a mode of retirement allowance shall be irrevocable[-] and subject to the spousal or reciprocal beneficiary notification requirement under subsection (c).

(b) Section 88-84 to the contrary notwithstanding, in the event of the death of a member after the date of the filing of the member's written application to retire, the designated beneficiary, otherwise the personal representative of the member's estate, shall receive the allowance under the option selected by the member [which] that would have been payable had the member retired, and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member's retirement.

[Any election of a mode of retirement shall be irrevocable.]

(c) No election under this section shall take effect unless:

- (1) The spouse or reciprocal beneficiary of the member is furnished written notification that:
 - (A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;
 - (B) Provides information indicating the effect of the election; and
 - (C) Is determined adequate by rules established by the board pursuant to chapter 91; or
- (2) The member selects option 2 or option 3/option A or option B and designates the spouse or reciprocal beneficiary as the beneficiary; or
- (3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:
 - (A) There is no spouse or reciprocal beneficiary;
 - (B) The spouse or reciprocal beneficiary cannot be located;
 - (C) The member has failed to notify the system that the member has a spouse or reciprocal beneficiary or has failed to provide the system with the name and address of the member's spouse or reciprocal beneficiary; or
 - (D) Of other reasons, as established by rules of the board pursuant to chapter 91. Any notice provided to a spouse or reciprocal beneficiary, or determination that the notification of a spouse or reciprocal beneficiary cannot be provided, shall be effective only with respect to that spouse or reciprocal beneficiary. The system will rely upon the representations made by a member as to whether the member has a spouse or reciprocal beneficiary and the name and address of the member's spouse or reciprocal beneficiary.
- (d) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:
 - (1) The terms and conditions of the various benefit options;
 - (2) The rights of member's spouse or reciprocal beneficiary under subsection (c) to be notified of the member's election of a benefit option; and
 - (3) The member's right to make, and the effect of, a revocation of an election of a benefit option.
- (e) The system shall not be liable for any false statements made by the member."

SECTION 2. Section 88-283, Hawaii Revised Statutes, is amended to read as follows:

"§88-283 Retirement allowance options. (a) In lieu of the maximum retirement allowance described in sections 88-282, 88-284, and 88-285, a member may elect to receive the member's retirement allowance under one of the options described below, which shall be actuarially equivalent to the maximum retirement allowance:

- (1) Option A: A reduced allowance payable to the member, then upon the member's death, one-half of the allowance, including fifty per cent of

all cumulative post retirement allowances, to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary;

- (2) Option B: A reduced allowance payable to the member, then upon the member's death, the same allowance, including cumulative post retirement allowances, paid to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary; or
- (3) Option C: A reduced allowance payable to the member, and if the member dies within ten years of retirement, the same allowance, including cumulative post retirement allowances, paid to the member's beneficiary for the balance of the ten-year period.

(b) Any election of a mode of retirement shall be irrevocable~~[-]~~ and subject to the spousal or reciprocal beneficiary notification requirement under subsection (c).

(c) No election under this section shall take effect unless:

(1) The spouse or reciprocal beneficiary of the member is furnished written notification that:

- (A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;
- (B) Provides information indicating the effect of the election; and
- (C) Is determined adequate by rules established by the board pursuant to chapter 91; or

(2) The member selects option 2 or option 3/option A or option B and designates the spouse or reciprocal beneficiary as the beneficiary; or

(3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:

- (A) There is no spouse or reciprocal beneficiary;
- (B) The spouse or reciprocal beneficiary cannot be located;
- (C) The member has failed to notify the system that the member has a spouse or reciprocal beneficiary or has failed to provide the system with the name and address of the member's spouse or reciprocal beneficiary; or

(D) Of other reasons, as established by rules of the board pursuant to chapter 91. Any notice provided to a spouse or reciprocal beneficiary, or determination that the notification of a spouse or reciprocal beneficiary cannot be provided, shall be effective only with respect to that spouse or reciprocal beneficiary. The system shall rely upon the representations made by a member as to whether the member has a spouse or reciprocal beneficiary and the name and address of the member's spouse or reciprocal beneficiary.

(d) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:

- (1) The terms and conditions of the various benefit options;
- (2) The rights of member's spouse or reciprocal beneficiary under subsection (c) to be notified of the member's election of a benefit option; and
- (3) The member's right to make, and the effect of, a revocation of an election of a benefit option.

(e) The system shall not be liable for any false statements made by the member."

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

SECTION 4. This Act shall take effect on January 1, 2004.

(Approved June 16, 2003.)