

**ACT 86**

S.B. NO. 1089

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 purpose of this Act is to provide the employees' retirement system with the means to improve and protect its funded status by properly funding membership service credit for contributory and hybrid members receiving workers' compensation benefits and acquiring retirement service credit.

Employees approved for workers' compensation wage loss replacement benefits are paid up to their full salary for the period of their leave. In contrast to other types of leaves, the employee will earn full retirement service credit for this period, and contributory and hybrid employees have the option, but are not required, to deduct retirement contributions for these wage replacement benefits. If paid, these deficient contributions may be reimbursed by the employee years after the service credit is granted. Similarly, earned membership service is supported by employee and employer contributions during the employee's employ-

ment, but acquired service is not. Previously forfeited service may be acquired at any time during the employee's employment at a cost based on the employee's salary at the time of purchase. Previous military service may be acquired at any time after the member meets the eligibility requirements, at a cost based on the employee's salary at the time of purchase. The employee's acquisition cost is significantly lower than the actuarial cost based on the employee's age, retirement eligibility, and projected retirement benefits. Thus, the employee's increased retirement benefit resulting from additional service acquired is funded primarily by employer contributions and by contributions by other current and future employees.

The purpose of this Act is to require that contributions be made contemporaneously with the payment of workers' compensation benefits. In addition, this Act requires that the cost for purchasing additional service credit be based on an actuarially neutral calculation and sets a time limit in which the member must initiate payment for certified membership service.

SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to subpart A of part II to be appropriately designated and to read as follows:

**“§88- Contributions for unpaid leaves of absence.** Contributions required as a condition to inclusion in membership service of unpaid leaves of absence shall be made by the member within one year after return from the leave of absence.”

SECTION 3. Section 78-25, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

**“[§78-25] Credits for employees receiving workers' compensation benefits; wage supplement.** (a) Where an employee is absent from work because of injuries incurred within the scope of the employee's employment and the employee is receiving workers' compensation benefits, the employee shall continue to earn vacation, sick leave, and retirement credits as though the employee were not absent but performing duties of the employee's regular employment. Section 386-57 or any other law to the contrary notwithstanding, the employee ~~may elect to~~ shall have deducted from the employee's workers' compensation benefit checks an amount calculated in the same manner as if the employee were not absent but performing duties of the employee's regular employment to be used as the employee's contribution to the retirement system.”

SECTION 4. Section 88-59, Hawaii Revised Statutes, is amended to read as follows:

**“§88-59 Acquisition of membership service.** (a) Under rules as the board may adopt, any member may file with the ~~board~~ system a statement of all service as an employee or other service paid for by the State or a county rendered prior to the member's last becoming a member that is not credited to the member, for which the member claims prior service credit, and also a statement of the services for which the member claims membership service credit and for which the member agrees to have additional deductions made from the member's compensation or to make a lump sum payment as described in this section.

(b) After the filing of the statement, the board shall verify the service claimed and determine the service credit allowable. Verified prior service shall be

credited. Verified membership service shall be paid for by the member in any one of the following methods, at the member's option:

- (1) If deductions commence or the lump sum payment is made prior to July 1, 2020:
- [(+) (A) By deductions from the member's compensation pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, under the employer pick up plan under section 88-46. An irrevocable payroll authorization filed by the member for a period not to exceed sixty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The member may elect to have:
- [(A) (i) Deductions from the member's compensation of twice the contribution rate provided for in section 88-45 over a period equal to the period for which membership service credit is allowable not to exceed sixty months; or
- [(B) (ii) Deductions from the member's compensation of one and one-half times the contribution rate provided for in section 88-45 over a period equal to twice the period for which membership service credit is allowable not to exceed sixty months; or
- [(=) (B) By lump sum payment of contributions computed at the contribution rate provided for in section 88-45 applied to the member's monthly rate of compensation at the time of payment multiplied by the number of months for which membership service credit is allowable; provided that after July 1, 1982, this method shall not be available to any new member with fewer than five years of membership service exclusive of any previous service acquired under ~~paragraph (1)~~ subparagraph (A).
- (2) If the deductions commence or the lump sum payment is made after June 30, 2020:
- (A) By deductions from the member's compensation pursuant to section 414(h)(2) of the Internal Revenue Code of 1986, as amended, under the employer pick up plan under section 88-46. An irrevocable payroll authorization filed by the member for a period not to exceed sixty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The amount of the deductions shall be sufficient to amortize the actuarial cost of the membership service to be credited, together with interest at the investment yield rate assumption in effect as of the date the claim for service credit is made, in level twice-monthly payments over the period specified in the irrevocable authorization. Service credited shall be proportional on the basis of whole months. For example, if a member elects to acquire twenty-four months of service over sixty months and terminates employment after thirty and one-half months of deductions, the member will acquire twelve months of membership service credit; or
- (B) By lump sum payment equal to the actuarial cost of the membership service to be credited; provided that the member has at least five years of membership exclusive of any previous service acquired under paragraph (1) or subparagraph (A).

The actuarial cost of the membership service to be credited shall be determined by the actuary for the system based on the age of the member in full years as of the date the claim for service credit is made, the investment yield rate assumption in effect as of the date the claim for service credit is made, the retirement age eligibility requirements and retirement allowance provisions applicable to the member, and other actuarial assumptions adopted by the board in effect as of the date the claim for service credit is made.

The deductions from compensation or lump sum payment shall be paid to the system and shall be credited to the member's individual account and become part of the member's accumulated contributions.

(c) Membership service credit, in addition to any other service credited to the member, shall be allowed for the period for which the deductions from compensation or lump sum payment have been made as described in this section~~[-]~~; provided that payment shall commence within one year after the system notifies the member that the service claimed has been verified and that service credit is allowable; provided further that, for a member who becomes a member after June 30, 2016:

- (1) Membership service credit for prior service or for service rendered prior to the member's last becoming a member shall be claimed within one year after the member enters service;
- (2) Membership service credit for military service pursuant to section 88-132.5 shall be claimed within one year after the member meets the requirements of section 88-132.5(a) or (b); and
- (3) Any other membership service credit acquired pursuant to this section shall be claimed within one year after the member becomes eligible to receive the service credit upon satisfaction of the requirements of this section.

(d) The contribution rates under section 88-45 shall be reduced by one and eight-tenths per cent for any service being claimed prior to July 1, 2020, that was rendered prior to July 1, 1961."

SECTION 5. Section 88-324, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Except as otherwise provided in subsection (c), (d), or (e), verified membership service shall be paid for in any one of the following methods, at the member's option:

(1) If deductions commence or the lump sum payment is made prior to July 1, 2020:

[(4)] (A) By deductions from the member's compensation pursuant to section 414(h)(2) of the Internal Revenue Code of 1986, as amended, under the employer pick up plan under section 88-326. An irrevocable payroll authorization filed by the member for a period not to exceed sixty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The amount of service credit that may be acquired pursuant to this method shall not exceed the period over which the payroll payments are made. The member may elect to have:

[(A)] (i) Deductions from the member's compensation of twice the contribution rate provided for in section 88-325 over a period equal to the period for which membership service credit is allowable not to exceed sixty months; or

- ~~(B)~~ (ii) Deductions from the member's compensation of one and one-half times the contribution rate provided for in section 88-325 over a period equal to twice the period for which membership service credit is allowable, not to exceed sixty months; or
- ~~(2)~~ (B) By lump sum payment of contributions computed at the contribution rate provided for in section 88-325 applied to the member's monthly rate of compensation at the time of payment multiplied by the number of months for which membership service credit is allowable.
- (2) If the deductions commence or the lump sum payment is made after June 30, 2020:
  - (A) By deductions from the member's compensation pursuant to section 414(h)(2) of the Internal Revenue Code of 1986, as amended, under the employer pick up plan under section 88-326. An irrevocable payroll authorization filed by the member for a period not to exceed sixty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The amount of the deductions shall be sufficient to amortize the actuarial cost of the membership service to be credited, together with interest at the investment yield rate assumption in effect as of the date the claim for service credit is made, in level twice-monthly payments over the period specified in the irrevocable authorization. Service credited shall be proportional on the basis of whole months. For example, if a member elects to acquire twenty-four months of service over sixty months and terminates employment after thirty and one-half months of deductions, the member will acquire twelve months of membership service credit; or
  - (B) By lump sum payment equal to the actuarial cost of the membership service to be credited; provided that the member has at least five years of membership exclusive of any previous service acquired under paragraph (1) or subparagraph (A).

The actuarial cost of the membership service to be credited shall be determined by the actuary for the system based on the age of the member in full years as of the date the claim for service credit is made, the investment yield rate assumption in effect as of the date the claim for service credit is made, the retirement age eligibility requirements and retirement allowance provisions applicable to the member, and other actuarial assumptions adopted by the board in effect as of the date the claim for service is made.

The deductions from compensation or lump sum payment shall be paid to the system and shall be credited to the member's individual account and become part of the member's accumulated contributions.

Class H membership service credit in addition to any other service credited to the member shall be allowed for the period for which the deductions from compensation or lump sum payment have been made in accordance with this subsection[.]; provided that payment shall commence within one year after the system notifies the member that the service claimed has been verified and that service credit is allowable; provided further that, for a member who becomes a member after June 30, 2016: membership service credit for prior service or for service rendered prior to the member's last becoming a member shall be claimed within one year after the member enters service; membership service credit for

military service pursuant to section 88-132.5 shall be claimed within one year after the member meets the requirements of section 88-132.5(a) or (b); and any other membership service credit acquired pursuant to this section shall be claimed within one year after the member becomes eligible to receive the service credit upon satisfaction of the requirements of this section.

(c) Verified membership service for which a former class A or class B member in service on June 30, 2006, was eligible as of June 30, 2006, but failed to claim by the date established by the board pursuant to section 88-322(b), shall be paid for in any one of the following methods, at the member's option:

(1) If deductions commence or the lump sum payment is made prior to July 1, 2020:

[(+) (A) By deductions from the member's compensation pursuant to section 414(h)(2) of the Internal Revenue Code of 1986, as amended, under the employer pick up plan under section 88-326. An irrevocable payroll authorization filed by the member for a period not to exceed sixty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The amount of service credit that may be acquired pursuant to this method shall not exceed the period over which the payroll payments are made. The member may elect to have:

[(A)] (i) Deductions from the member's compensation of twice the contribution rate applicable to the member under section 88-45 as of June 30, 2006, over a period equal to the period for which membership service credit is allowable, not to exceed sixty months; or

[(B)] (ii) Deductions from the member's compensation of one and one-half times the contribution rate applicable to the member under section 88-45 as of June 30, 2006, over a period equal to twice the period for which membership service credit is allowable, not to exceed sixty months; or

[(2)] (B) By lump sum payment of contributions computed at the contribution rate applicable to the member under section 88-45 as of June 30, 2006, applied to the member's monthly rate of compensation at the time of payment, multiplied by the number of months for which membership service credit is allowable.

(2) If the deductions commence or the lump sum payment is made after June 30, 2020:

(A) By deductions from the member's compensation pursuant to section 414(h)(2) of the Internal Revenue Code of 1986, as amended, under the employer pick up plan under section 88-46. An irrevocable payroll authorization filed by the member for a period not to exceed sixty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The amount of the deductions shall be sufficient to amortize the actuarial cost of the membership service to be credited, together with interest at the investment yield rate assumption in effect as of the date the claim for service credit is made, in level twice-monthly payments over the period specified in the irrevocable authorization. Service credited shall be proportional on the basis of whole months. For example, if a member elects to acquire twenty-four months over sixty months and terminates employment

after thirty and one-half months of deductions, the member will acquire twelve months of membership service credit; or  
(B) By lump sum payment equal to the actuarial cost of the membership service to be credited; provided that the member has at least five years of membership exclusive of any previous service acquired under paragraph (1) or subparagraph (A).

The actuarial cost of the membership service to be credited shall be determined by the actuary for the system based on the age of the member in full years as of the date the claim for service credit is made, the investment yield rate assumption in effect as of the date the claim for service credit is made, the retirement age eligibility requirements and retirement allowance provisions applicable to the member, and other actuarial assumptions adopted by the board in effect as of the date the claim for service is made.

The deductions from compensation or lump sum payment shall be paid to the system and shall be credited to the member's individual account and become part of the member's accumulated contributions.

Class H membership service credit in addition to any other service credited to the member shall be allowed for the period for which the deductions from compensation or lump sum payment have been made in accordance with this subsection[-]; provided that payment shall commence within one year after the system notifies the member that the service claimed has been verified and that service credit is allowable; and provided further that, for a member who becomes a member after June 30, 2016: membership service credit for prior service or for service rendered prior to the member's last becoming a member shall be claimed within one year after the member enters service; membership service credit for military service pursuant to section 88-132.5 shall be claimed within one year after the member meets the requirements of section 88-132.5(a); and any other membership service credit acquired pursuant to this section shall be claimed within one year after the member becomes eligible to receive the service credit upon satisfaction of the requirements of this section."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.  
(Approved June 5, 2015.)

**Note**

1. Edited pursuant to HRS §23G-16.5.