

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

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

PART I

SECTION 1. Section 88-74.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The system shall finalize a retirant’s pension benefit within six calendar months following the month of the retirant’s retirement[~~;~~] when the effective date of retirement is the first day of the month. When the effective date of retirement is December 31, the system shall finalize a retirant’s pension benefit within seven calendar months following the month of the retirant’s retirement. For pension benefits finalized after the sixth calendar month following the month of the retirant’s retirement[~~;~~] when the effective date of retirement is on the first day of the month, or the seventh calendar month following the month of the retirant’s retirement when the effective date of retirement is December 31, an interest payment amounting to [four and one-half] an amount to be established by the board that shall not be less than the ninety day United States treasury bill rate as of the end of the prior year plus one per cent per [annua] year shall be paid to the retirant. Interest shall be calculated on the difference between the amount the retirant is entitled to receive from the retirant’s retirement date up to the day the payment is made and the amount the retirant was paid, including any refund of member contributions.

Beginning January 1, 2004, or the first day of the seventh calendar month following the month of retirement[~~;~~] when the effective date of retirement is on the first day of the month, or the first day of the eighth calendar month following the month of retirement when the effective date of retirement is December 31, whichever is ~~[later,] the latest,~~ interest payments calculated as simple interest shall be prorated up to the date payment is made; provided that any pension adjustment made after the retirant’s pension has once been finalized shall not be subject to any interest payment.

The system shall finalize ordinary and service-connected disability retirements within six calendar months following the month that the member’s retirement is approved by the board or the actual retirement date specified by the member, whichever is later.”

SECTION 2. Section 88-100, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The additional contributions required by this section shall be payable in a lump sum ~~[in the]~~ within two fiscal ~~[year]~~ years following the fiscal year in which the employee or former employee retired; provided that, if the additional contributions required for the employees or former employees who retire in a fiscal year are greater than ten per cent of the employer’s contributions (excluding the additional contributions) to the pension accumulation fund for that fiscal year, the employer may pay the additional contributions over a period of three fiscal years in installments equal to no less than one-third of the original amount of the required additional contributions, plus interest on the unpaid balance, commencing on the first day of the second fiscal year following the retirement of the employees or former employees, at an annual rate equal to the investment yield rate assumption for actuarial valuations of the system.”

PART II

SECTION 3. Section 88-75, Hawaii Revised Statutes, is amended to read as follows:

“**§88-75 Ordinary disability retirement.** (a) ~~[Upon]~~ Under rules the board of trustees may adopt, upon application of a member in service or on leave without pay, or the person appointed by the family court as guardian of an incapacitated member, any member who has ten or more years of credited service shall be retired by the ~~[board of trustees]~~ system on an ordinary disability retirement allowance if the medical board~~;~~ or other entity designated by the board of trustees, after a medical examination of the member, certifies that:

- (1) The member is mentally or physically incapacitated for the further performance of duty at the time of application;
- (2) The incapacity is likely to be permanent; and
- (3) The member should be retired.

(b) Upon approval by the ~~[board,]~~ system, the member shall be eligible to receive an ordinary disability retirement benefit no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed. A member whose application for an ordinary disability retirement allowance is approved by the ~~[board]~~ system while the member is still in service may terminate service and retire at any time following the approval; provided that retirement shall become effective on the first day of the month following the month the applicant terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed.”

SECTION 4. Section 88-79, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) ~~[Upon]~~ Under rules the board of trustees may adopt, upon application of a member, or the person appointed by the family court as guardian of an incapacitated member, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the mem-

ber's part, may be retired by the [board] system for service-connected disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the system a copy of the employer's report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the system within two years of the date of the accident, or the date upon which workers' compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member's disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board or other entity designated by the board of trustees certifies that the member is incapacitated for the further performance of duty at the time of application and that the member's incapacity is likely to be permanent."

2. By amending subsections (c), (d), and (e) to read:

"(c) The [board] system may waive strict compliance with the time limits within which a report of the accident and an application for service-connected disability retirement must be filed with the [board] system if it is satisfied that the failure to file within the time limited by law was due to ignorance of fact or law, inability, or to the fraud, misrepresentation, or deceit of any person, or because the applicant was undergoing treatment for the disability or was receiving vocational rehabilitation services occasioned by the disability.

(d) The [board] system may determine whether or not the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of wilful negligence on the part of the member. The [board] system may accept as conclusive:

- (1) The certification made by the head of the agency in which the member is employed; or
- (2) A finding to this effect by the medical board[-] or other entity designated by the board of trustees.

(e) Upon approval by the [board] system, the member shall be eligible to receive a service-connected disability retirement benefit after the member has terminated service. Retirement shall become effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed."

SECTION 5. Section 88-85, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the case of an accidental death as determined by the [board] system pursuant to section 88-85.5, there shall be paid to the member's designated beneficiary or to the member's estate the amount of the member's accumulated contributions and there shall be paid in lieu of the ordinary death benefit payable under section 88-84, a pension of one-half of the average final compensation of the member:

- (1) To the surviving spouse or reciprocal beneficiary of the member to continue until the surviving spouse or reciprocal beneficiary remarries, marries, or enters into a new reciprocal beneficiary relationship;
- (2) If there be no surviving spouse or reciprocal beneficiary, or if the surviving spouse or reciprocal beneficiary dies or remarries, marries, or enters into a new reciprocal beneficiary relationship before any

child of the deceased member shall have attained the age of eighteen years, then to the deceased member's child or children under the age of eighteen, divided in the manner as the ~~[board]~~ system in its discretion shall determine, to continue as a joint and survivor pension of one-half of the deceased member's final compensation until every child dies, or attains the age of eighteen; or

- (3) If there is no surviving spouse or reciprocal beneficiary or child under the age of eighteen years surviving the deceased member, then to the deceased member's dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the ~~[board,]~~ system, or if there is no nomination, then to the deceased member's dependent father or to the deceased member's dependent mother as the ~~[board,]~~ system, in its discretion, shall direct to continue for life.

The pension shall be effective on the first day of the month following the member's death, except for the month of December, when benefits shall be effective on the first or last day of the month."

SECTION 6. Section 88-85.5, Hawaii Revised Statutes, is amended to read as follows:

"§88-85.5 Applications for accidental death benefits; approval by the ~~[board]~~ system. (a) ~~[A]~~ Under rules the board of trustees may adopt, an application for service-connected accidental death benefits may be filed with the system by or on behalf of the claimant pursuant to section 88-85, 88-286, or 88-339, on a form provided by the system. The application shall be filed no later than three years from the date of the member's death.

(b) After the claimant files an application for service-connected accidental death benefits, 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) Upon the system's receipt of the application and documents specified in subsection (b), the medical board or other entity designated by the board of trustees shall determine and certify to the ~~[board]~~ system whether the member's death was an accidental death as defined in section 88-21.

(d) The ~~[board]~~ system may accept as conclusive as to whether or not the member's death was caused by wilful negligence on the part of the member:

- (1) A certification made by the head of the agency in which the member is employed; or
- (2) A finding by the medical board[-] or other entity designated by the board of trustees.

(e) After the medical board or other entity designated by the board of trustees submits its certification to the system, the ~~board~~ system shall approve or disapprove the application. Upon approval of an application, benefits shall be paid as provided in section 88-85, 88-286, or 88-339."

SECTION 7. Section 88-284, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) ~~Upon~~ Under rules the board of trustees may adopt, upon application of a member in service or on leave without pay, or the person appointed by the family court as guardian of an incapacitated member, any member who has ten or more years of credited service shall be retired by the ~~board of trustees~~ system on an ordinary disability retirement allowance if the medical board~~;~~ or other entity designated by the board of trustees, after a medical examination of the member, certifies that:

- (1) The member is mentally or physically incapacitated for the further performance of duty at the time of application;
- (2) The incapacity is likely to be permanent; and
- (3) The member should be retired.

(b) Upon approval by the ~~board;~~ system, the member shall be eligible to receive an ordinary disability retirement benefit no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed. A member whose application for an ordinary disability retirement allowance is approved by the ~~board~~ system while the member is still in service may terminate service and retire at any time following the approval; provided that retirement shall become effective on the first day of the month following the month the applicant terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed."

SECTION 8. Section 88-286, Hawaii Revised Statutes, shall be amended by amending subsection (c) to read as follows:

"(c) In the case of accidental death as determined by the ~~board~~ system pursuant to section 88-85.5, the death benefit shall be effective on the first day of the month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed, as follows:

- (1) For the surviving spouse or reciprocal beneficiary, an allowance equal to thirty per cent of the member's average final compensation, payable until remarriage, marriage, or upon entry into a new reciprocal beneficiary relationship;
- (2) If there is a surviving spouse or reciprocal beneficiary, each child under the age of eighteen shall receive an allowance equal to the greater of:
 - (A) Ten per cent of the member's accrued maximum retirement allowance unreduced for age; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed twenty per cent of the member's accrued maximum retirement allowance unreduced for age; or
 - (B) Three per cent of the member's average final compensation; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed six per cent of the member's average final compensation.

The death benefit under this paragraph shall be payable to each child until the child attains age eighteen; and

- (3) If there is no surviving spouse or reciprocal beneficiary, each child under the age of eighteen shall receive an allowance equal to the greater of:
- (A) Twenty per cent of the member's accrued maximum retirement allowance unreduced for age; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed forty per cent of the member's accrued maximum retirement allowance unreduced for age; or
 - (B) Six per cent of the member's average final compensation; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed twelve per cent of the member's average final compensation.

The death benefit under this paragraph shall be payable to each child until the child attains age eighteen."

SECTION 9. Section 88-334, Hawaii Revised Statutes, is amended to read as follows:

"§88-334 Ordinary disability retirement. (a) ~~[Upon]~~ Under rules the board of trustees may adopt, upon application of a class H member in service or on leave without pay, or the person appointed by the family court as guardian of an incapacitated member, any member who has ten or more years of credited service shall be retired by the ~~[board]~~ system on an ordinary disability retirement allowance if the medical board~~;~~ or other entity designated by the board of trustees, after a medical examination of the member, certifies that:

- (1) The member is mentally or physically incapacitated for the further performance of duty at the time of application;
- (2) The incapacity is likely to be permanent; and
- (3) The member should be retired.

(b) Upon approval by the ~~[board,]~~ system, the member shall be eligible to receive an ordinary disability retirement benefit no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed. A member whose application for an ordinary disability retirement allowance is approved by the ~~[board]~~ system while the member is still in service may terminate service and retire at any time following the approval; provided that retirement shall become effective on the first day of the month following the month the applicant terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed."

SECTION 10. Section 88-336, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) ~~[Upon]~~ Under rules the board of trustees may adopt, upon application of a class H member, or the person appointed by the family court as guardian of an incapacitated member, any class H member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negli-

gence on the member's part, may be retired by the [board] system for service-connected disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the system a copy of the employer's report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the system within two years of the date of the accident, or the date upon which workers' compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member's disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board or other entity designated by the board of trustees certifies that the member is incapacitated for the further performance of duty at the time of application and that the member's incapacity is likely to be permanent."

2. By amending subsections (c), (d), and (e) to read:

"(c) The [board] system may waive strict compliance with the time limits within which a report of the accident and an application for service-connected disability retirement must be filed with the [board] system if it is satisfied that the failure to file within the time limited by law was due to ignorance of fact or law, inability, or the fraud, misrepresentation, or deceit of any person, or because the applicant was undergoing treatment for the disability, or was receiving vocational rehabilitation services occasioned by the disability.

(d) The [board] system may determine whether the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of wilful negligence on the part of the member. The [board] system may accept as conclusive:

- (1) The certification made by the head of the agency in which the member is employed; or
- (2) A finding to this effect by the medical board[-] or other entity designated by the board of trustees.

(e) Upon approval by the [board,] system, the member shall be eligible to receive a service-connected disability retirement benefit after the member has terminated service. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed."

SECTION 11. Section 88-339, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [H] Under rules the board of trustees may adopt, in the case of an accidental death as determined by the [board] system pursuant to section 88-85.5, there shall be paid to the member's designated beneficiary or to the member's estate the amount of the member's accumulated contributions and there shall be paid in lieu of the ordinary death benefit payable under section 88-338 a pension of one-half of the average final compensation of the member:

- (1) To the surviving spouse or reciprocal beneficiary of the member to continue until the surviving spouse or reciprocal beneficiary remarries, marries, or enters into a new reciprocal beneficiary relationship;
- (2) If there be no surviving spouse or reciprocal beneficiary, or if the surviving spouse or reciprocal beneficiary dies or remarries, marries, or enters into a new reciprocal beneficiary relationship before any child of the deceased member shall have attained the age of eighteen

years, then to the deceased member's child or children under that age, divided in a manner as the [board] system in its discretion shall determine, to continue as a joint and survivor pension of one-half of the deceased member's final compensation until every child dies, or attains that age; or

- (3) If there is no surviving spouse or reciprocal beneficiary and no child under the age of eighteen years surviving the deceased member, then to the deceased member's dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the [board,] system, or if there is no nomination, then to the deceased member's dependent father or to the deceased member's dependent mother as the [board,] system, in its discretion, shall direct to continue for life.

The pension shall be effective on the first day of the month following the member's death, except for the month of December, when benefits shall be effective on the first or last day of the month."

PART III

SECTION 12. The legislature finds that on December 12, 2016, the board of trustees of the employees' retirement system adopted the recommendation of their actuary to change the assumptions used for required employer contribution rates based upon the actuary's assessment completed on June 30, 2016. Under these new assumptions, the period required to amortize the unfunded accrued liability of the employees' retirement system would increase from twenty-seven years to over thirty years. Pursuant to section 88-122, Hawaii Revised Statutes, contribution rates are subject to adjustment if the period required to amortize the unfunded liability exceeds thirty years. To maintain the thirty-year funding period, the actuary recommended increasing the employer contribution rates to:

- (1) Forty-one per cent for police officers, firefighters, and corrections officers; and
- (2) Twenty-four per cent for all other employees.

The purpose of this Part is to incrementally increase the rates for employer contributions to the employees' retirement system to maintain the thirty-year funding period.

SECTION 13. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Commencing with fiscal year 2005-2006 and each subsequent fiscal year[;] until fiscal year 2007-2008, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on fifteen and three-fourths per cent of the member's compensation for police officers, firefighters, and corrections officers and thirteen and three-fourths per cent of the member's compensation for all other employees. Commencing with fiscal year 2008-2009 and each subsequent fiscal year until fiscal year 2011-2012, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on nineteen and seven-tenths per cent of the member's compensation for police officers, firefighters, and corrections officers and fifteen per cent of the member's compensation for all other employees. In fiscal year 2012-2013, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on twenty-two per cent of the member's compensation for police officers, firefighters, and corrections officers and fifteen and one-half per cent of the member's compensation for all other

ACT 17

employees. In fiscal year 2013-2014, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on twenty-three per cent of the member's compensation for police officers, firefighters, and corrections officers and sixteen per cent of the member's compensation for all other employees. In fiscal year 2014-2015, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on twenty-four per cent of the member's compensation for police officers, firefighters, and corrections officers and sixteen and one-half per cent of the member's compensation for all other employees. Commencing with fiscal year 2015-2016 [~~and each subsequent fiscal year,~~] until fiscal year 2016-2017, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on twenty-five per cent of the member's compensation for police officers, firefighters, and corrections officers and seventeen per cent of the member's compensation for all other employees. In fiscal year 2017-2018, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on twenty-eight per cent of the member's compensation for police officers, firefighters, and corrections officers and eighteen per cent of the member's compensation for all other employees. In fiscal year 2018-2019, the employer contributions for normal cost and accrued liability for each of the two groups in subsection (a) shall be based on thirty-one per cent of the member's compensation for police officers, firefighters, and corrections officers and nineteen per cent of the member's compensation for all other employees. In fiscal year 2019-2020, the employer contributions for normal cost and accrued liability for each of the two groups in subsection (a) shall be based on thirty-six per cent of the member's compensation for police officers, firefighters, and corrections officers and twenty-two per cent of the member's compensation for all other employees. Commencing with fiscal year 2020-2021 and each subsequent fiscal year, the employer contributions for normal cost and accrued liability for each of the two groups in subsection (a) shall be based on forty-one per cent of the member's compensation for police officers, firefighters, and corrections officers and twenty-four per cent of the member's compensation for all other employees. The contribution rates shall amortize the total unfunded accrued liability of the entire plan over a period not to exceed thirty years.

The contribution rates shall be subject to adjustment:

- (1) If the actual period required to amortize the unfunded accrued liability exceeds thirty years;
- (2) If there is no unfunded accrued liability; or
- (3) Based on the actuarial investigation conducted in accordance with section 88-105."

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect on July 1, 2017.

(Approved May 18, 2017.)