

ACT 52

S.B. NO. 1360

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 maintain the employees' retirement system of the State of Hawaii's (the "system") federal tax qualification requirements by conforming chapter 88, Hawaii Revised Statutes, to the updated requirements of the Internal Revenue Code of 1986, as amended, regarding automatic disbursements, including required minimum distributions, by the SECURE 2.0 Act of 2022.

SECTION 2. Section 88-74.7, Hawaii Revised Statutes, is amended to read as follows:

"§88-74.7 Commencement of benefits on required beginning date. (a) The purpose of this section is to provide for distribution of benefits in accordance with a reasonable and good faith interpretation of section 401(a)(9) of the Internal Revenue Code. Section 401(a)(9) of the Internal Revenue Code re-

quires that the “entire interest” of a member be distributed or that distribution of the member’s benefits begin no later than the member’s “required beginning date”~~[-], as defined in section 401(a)(9) of the Internal Revenue Code of 1986, as amended.~~

~~[(b)]~~ For the purposes of this section, “required beginning date” means April 1 of the calendar year following the calendar year in which a member terminates service or attains age seventy and one-half, whichever is later.

~~(e)]~~ (b) A member or former member’s accumulated contributions or hypothetical account balance, as defined in section 88-311, shall be paid to the member or former member, or payment of the benefits payable under part II, VII, or VIII of this chapter shall commence, no later than the member’s or former member’s required beginning date. The payment or payments shall be made on, or beginning no later than, the member’s or former member’s required beginning date even if the member or former member does not apply for payment or file a retirement application.

~~[(d)]~~ (c) If, by a member’s or former member’s required beginning date:

- (1) The member or former member’s accumulated contributions or hypothetical account balance, as defined in section 88-311, are not paid to the member or former member; or
- (2) Payment of the benefits payable under part II, VII, or VIII of this chapter do not commence,

the system shall pay the service retirement benefits for which the member or former member is eligible pursuant to part II, VII, or VIII of this chapter, as applicable, retroactive to the member’s or former member’s required beginning date with regular interest.

~~[(e)]~~ (d) If the system does not receive a written election from the member or former member under section 88-83, 88-283, or 88-333, as applicable, prior to the later of the member’s or former member’s required beginning date or sixty days following the receipt by the member or former member of notice from the system that the member or former member is required to make an election, the following election shall be deemed to have been made as of the member or former member’s required beginning date:

- (1) If the member or former member is unmarried or has no reciprocal beneficiary, the member or former member shall be deemed to have elected the maximum retirement allowance; or
- (2) If the member or former member is married or has a reciprocal beneficiary, the member or former member shall be deemed to have elected option 3 under section 88-83, or option A under section 88-283, as applicable, and to have designated the member’s or former member’s spouse or reciprocal beneficiary as the member’s or former member’s beneficiary;

provided that if the system receives the written election after the member’s or former member’s required beginning date, but within sixty days following receipt by the member or former member of notice from the system that the member or former member is required to make the election, the written election shall apply, and the member’s or former member’s retirement benefit shall be recomputed, based on the written election, retroactive to the member or former member’s required beginning date. The amount of any underpayment resulting from recomputing the benefit shall bear regular interest. If recomputing the benefit results in an overpayment, payments shall be adjusted so that the actuarial equivalent of the benefit to which the member or former member was correctly entitled shall be paid.

~~[(f)]~~ (e) If the system does not have current information about the member's or former member's marital or reciprocal beneficiary status at the time of a deemed election, the following presumptions shall apply:

- (1) If the member or former member was married or had a reciprocal beneficiary at the time the member or former member last provided information to the system about the member's or former member's marital or reciprocal beneficiary status, it shall be presumed that the member or former member is still married to the same spouse or is in the same reciprocal beneficiary relationship. If the system does not have information as to the age of the spouse or reciprocal beneficiary, the spouse or reciprocal beneficiary shall be presumed to be forty years younger than the member or former member for purposes of computing the member's or former member's benefit; and
- (2) If the member or former member was unmarried and did not have a reciprocal beneficiary at the time the member or former member last provided information to the system about the member or former member's marital status, it shall be presumed that the member or former member is married and that the spouse of the member or former member is forty years younger than the member or former member.

~~[(g)]~~ (f) The presumptions in subsection ~~[(f)]~~ (e) shall cease to apply when the member or former member provides the system with current information as to the member's or former member's marital or reciprocal beneficiary status and the age of the member or former member's spouse or reciprocal beneficiary, if any, on the member's or former member's required beginning date. The information shall be provided in a form satisfactory to the system. At that time, the member's or former member's retirement allowance shall be recomputed, retroactive to the member's or former member's required beginning date, based on the updated information; provided that, except as provided in subsection ~~[(e)]~~, (d), the member or former member shall not be permitted to change the member's or former member's retirement allowance option election or beneficiary; provided further that the benefit being paid to any member or former member who, on the member's or former member's required beginning date, was unmarried and did not have a reciprocal beneficiary, but who was deemed to elect option 3 or option A with an assumed spouse or reciprocal beneficiary, shall be converted to the maximum retirement allowance retroactive to the member's or former member's required beginning date. The amount of any underpayment resulting from recomputing the benefit shall bear regular interest. If recomputing the benefit results in an overpayment, payments shall be adjusted so that the actuarial equivalent of the benefit to which the member or former member was correctly entitled shall be paid.

~~[(h)]~~ (g) If the system cannot locate the member or former member, the member's or former member's benefit shall be payable only until the end of the member's or former member's life expectancy, as determined at the member's or former member's required beginning date. If the member or former member has not by that time made a claim for benefits, the member or former member shall be deemed to be deceased at that time. Interest under subsection ~~[(d)]~~ (c) shall cease on benefits presumed to be abandoned property, pursuant to part I of chapter 523A, upon payment of the property to the administrator under part I of chapter 523A.

[~~(4)~~] (h) Rules necessary for the purposes of this section shall be adopted as provided in section 88-22.5.”

SECTION 3. Section 88-321, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding any other law to the contrary:

- (1) A class C member who returns to service after June 30, 2006, and who does not return to service as a class A or class B member shall become a class H member upon return to service; provided that, if the member is a former class A or class B member who received a refund of contributions picked up and paid by the member’s employer pursuant to section 88-46(b), the member may not become a class H member and shall return to service as a class C member, unless the refund was made pursuant to section 88-96 or 88-271(b);
- (2) A class A or a class B member, who returns to service after June 30, 2006, but does not have vested benefit status as provided in section 88-96(b) and who does not return to service as a class A or class B member, shall become a class H member upon return to service and the member’s credited service as a class A or B member shall be converted to class C credited service. The system shall return to the member the member’s accumulated contributions if the member’s accumulated contributions are \$1,000 or less at the time of distribution. If the member’s accumulated contributions for the class A or B credited service that was converted to class C credited service are greater than \$1,000 and the member does not make written application, contemporaneously with the member’s return to service, for return of such contributions, the member, except as provided by section 88-341, may not withdraw the member’s accumulated contributions for the class A or B credited service that was converted to class C credited service until the member retires or ~~[attains age sixty-two;]~~ pursuant to sections 88-22.5 and 88-74.7;
- (3) A class A member who returns to service after June 30, 2008, with vested benefit status and who does not return to service as a class B member shall return to service as a class A member; and
- (4) A class B member who returns to service after June 30, 2008, with vested benefit status and who does not return to service as a class B member shall return to service as a class A member.”

SECTION 4. Section 88-341, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any class H member who ceases to be an employee and who became a member before July 1, 2012, and has fewer than five years of credited service, excluding unused sick leave, or who becomes a member after June 30, 2012, and has fewer than ten years of credited service, excluding unused sick leave, shall, upon application to the board, be paid all of the former employee’s accumulated contributions, and the former employee’s membership shall thereupon terminate and all credited service shall be forfeited; provided that an individual shall not be paid the individual’s accumulated contributions if either:

- (1) The individual becomes an employee again within fifteen calendar days from the date the individual ceased to be an employee; or
- (2) At the time the application for return of accumulated contributions is received by the board, the individual has become an employee again.

Regular interest shall be credited to the former employee's account until the former employee's accumulated contributions are withdrawn; provided that the former employee's membership shall not continue after the fourth full year following the calendar year in which the individual's employment terminates. If the former employee does not become an employee again and has not withdrawn the former employee's accumulated contributions, the system shall return the former employee's accumulated contributions to the former employee ~~[as soon as possible after the later of: (A) the former employee attaining age sixty-two; or (B) the termination of the former employee's membership.]~~ pursuant to sections 88-22.5 and 88-74.7."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 15, 2025.)