

**Report Title:**

ERS; benefits and entitlements

**Description:**

Adds a definition of "child or children" to conform to administrative interpretation and includes in the definition: children living with an employees' retirement system member in a regular parent-child relationship for whom the member is the guardian or has legal and physical custody pursuant to a valid court order. Allows former contributory plan members and returning nonvested contributory plan members whose employees' retirement system accumulated contribution balances are \$1,000 or more to leave their contributions in the system until they reach age 62. Includes the director of the office of council services of each county in Class A membership if the member was in service prior to July 1, 2006 (HB 2310 HD1).



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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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

3           "**§88-1 Restrictions.** The provisions of this section shall  
4 be applicable to every pension and to every recipient or  
5 beneficiary thereof, granted or provided for by any special act  
6 of the legislature (other than benefits, or the recipients  
7 thereof, payable to beneficiaries or retirants of the employees'  
8 retirement system under [~~part~~] parts II[+], VII, and VIII)  
9 whether the pension be payable by the State or by any county, or  
10 by any board, commission, bureau, department, or other agency  
11 thereof:

12           (1) No recipient or beneficiary shall be permitted to draw  
13 any pension, or any portion thereof, in excess of \$50  
14 per month, while the recipient or beneficiary is  
15 holding any salaried position or office in, under or  
16 by authority of the United States, the State, or any  
17 political subdivision thereof. This paragraph shall  
18 not apply to any recipient or beneficiary who is



1           elected to the legislature or to the council of any  
2           county.

3           (2) If the recipient or beneficiary is a surviving spouse  
4           or reciprocal beneficiary, the pension so granted  
5           shall cease when the surviving spouse or reciprocal  
6           beneficiary remarries, marries, or enters into a new  
7           reciprocal beneficiary relationship.

8           (3) Any pension payable to any minor shall cease when the  
9           minor reaches the age of eighteen years.

10          (4) If any recipient or beneficiary of a pension, having a  
11          spouse or reciprocal beneficiary at the time the  
12          pension was first granted to the recipient or  
13          beneficiary dies, then the spouse or reciprocal  
14          beneficiary, as long as the spouse or reciprocal  
15          beneficiary remains unmarried or not in a reciprocal  
16          beneficiary relationship, shall be paid sixty per cent  
17          of the amount of the pension payable to the  
18          beneficiary."

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

21          "**§88-2 Minimum pension.** Every pension of less than \$50  
22          per month payable under or pursuant to any law of the State by



1 the State or by any county or independent public board or  
2 commission, other than benefits payable to members of the  
3 employees' retirement system or to the dependents or  
4 beneficiaries of such members under [~~part~~] parts II, VII, and  
5 VIII, shall be increased to \$50 per month, any provision in any  
6 other law to the contrary notwithstanding; provided that where  
7 the dependents of a deceased pensioner are receiving pensions by  
8 reason of the pensioner's death, the total only of all amounts  
9 paid to the dependents shall be so increased.

10 The council of each county, and each independent board or  
11 commission affected, shall appropriate the funds necessary to  
12 pay the increases hereby allowed of pensions payable by their  
13 respective counties, boards and commissions. Sufficient funds  
14 to cover these increases hereby allowed of pensions payable by  
15 the State are hereby appropriated from the general revenues of  
16 the State not otherwise appropriated, and the State comptroller  
17 shall issue warrants to pay these increases."

18 SECTION 3. Section 88-21, Hawaii Revised Statutes, is  
19 amended:

20 1. By adding four new definitions to be appropriately  
21 inserted and to read:



1       "Accidental death": death which is the natural and  
2 proximate result of an accident occurring at some definite time  
3 and place while the member was in the actual performance of  
4 duty, or due to the result of some occupational hazard, and not  
5 caused by wilful negligence on the part of the member.

6       "Active member": a member who is an employee.

7       "Child or children":

8       (1) A natural child of a member;

9       (2) A legally adopted child of a member; or

10      (3) A foster child or stepchild of a member:

11           (A) Who lives with a member in a regular parent-child  
12           relationship; and

13           (B) For whom the member has become the child's legal  
14           guardian or has been awarded legal and physical  
15           custody of the child pursuant to a valid court  
16           order.

17      "Ordinary death": death that is not accidental and that  
18 occurs while in service or on authorized leave without pay."

19           2. By amending the definitions of "beneficiary" and  
20 "retirement allowance" to read:

21           "Beneficiary": the recipient of any benefit from the  
22 system or, as context may indicate, the [~~natural~~] person or



1 persons designated by a member to receive the benefits payable  
2 in the event of the member's death.

3 "Retirement allowance": the benefit payable for life as  
4 originally computed and paid a member at the point of the  
5 member's retirement in accordance with the ~~[mode of]~~ retirement  
6 allowance option selected by the member, exclusive of any bonus  
7 or bonuses."

8 SECTION 4. Section 88-31, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§88-31 Medical board.** The board of trustees shall  
11 designate a medical board to be composed of three physicians not  
12 eligible to participate in the system. If required, other  
13 physicians may be employed to report on special cases. The  
14 medical board shall ~~[arrange]~~:

15 (1) Arrange for and pass upon all medical examinations  
16 required under this part and ~~[part]~~ parts VII and VIII  
17 of this chapter~~[, shall investigate]~~;

18 (2) Investigate all essential statements and certificates  
19 by or on behalf of a member in connection with  
20 application for disability retirement~~[,]~~ and ~~[shall~~  
21 ~~report]~~



1       (3) Report in writing to the board its conclusions and  
2               recommendations upon all the matters referred to it."

3           SECTION 5. Section 88-47, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) There shall be four classes of members in the system  
6 to be known as class A, class B, class C, and class H, defined  
7 as follows:

8           (1) Class A shall consist of:

9           (A) Judges, elected officials, and legislative  
10               officers;

11           (B) Investigators of the department of the attorney  
12               general, narcotics enforcement investigators,  
13               water safety officers not making the election  
14               under section 88-271, and public safety  
15               investigations staff investigators;

16           (C) Those members in service prior to July 1, 1984,  
17               including those who are on approved leave of  
18               absence, not making the election to become a  
19               class C member as provided in part VII or to  
20               become a class H member as provided in part VIII;

21           (D) The following members in service prior to  
22               July 1, 2006, including those who are on approved



1 leave of absence, not making the election to  
2 become a class H member as provided in part VIII:  
3 members whose salaries are set forth in  
4 sections 26-52 and 26-53 and their county  
5 counterparts, managing directors or an  
6 administrative assistant to the mayor, other  
7 county department heads, and agency heads  
8 appointed and subject to removal by the mayor;  
9 first deputies appointed by the county attorney  
10 and prosecuting attorney; the county clerk and  
11 deputy county clerk of each county; the director  
12 of the office of council services; the  
13 administrative director of the courts; the deputy  
14 administrative director of the courts; the  
15 executive officer of the labor and industrial  
16 relations appeals board; and the executive  
17 officer of the Hawaii labor relations board;  
18 (E) All former class A retirants who return to  
19 employment after June 30, 1984, requiring the  
20 retirant's active membership; and





- 1 (F) All former class B retirants who return to  
2 employment requiring the retirant's active  
3 membership, except for:
- 4 (i) Former retirants who return in the positions  
5 of police officer or firefighter;
- 6 (ii) Former retirants who were members on  
7 July 1, 1957, who elected not to be covered  
8 by the Social Security Act; and
- 9 (iii) Former retirants who were in positions to  
10 which coverage under Title II of the Social  
11 Security Act was not extended who entered  
12 membership after June 30, 1957, but before  
13 January 1, 2004;
- 14 (2) Class B shall consist of:
- 15 (A) Police officers and firefighters, including  
16 former retirants who return to service in such  
17 capacity;
- 18 (B) All employees, including former retirants, who  
19 were members on July 1, 1957, who elected not to  
20 be covered by the Social Security Act; and
- 21 (C) All employees, including former retirants, in  
22 positions to which coverage under Title II of the



1                   Social Security Act is not extended, who enter  
2                   membership after June 30, 1957, but before  
3                   January 1, 2004, not making the election to  
4                   become a class H member as provided in part VIII;

5           (3) Except for members described in paragraphs (1) and  
6           (2), class C shall consist of all employees, not  
7           making the election to become a class H member as  
8           provided in part VIII, who:

9           (A) First enter service after June 30, 1984, but  
10           before July 1, 2006;

11           (B) Reenter service after June 30, 1984, but before  
12           July 1, 2006, without vested benefit status as  
13           provided in section 88-96(b);

14           (C) Make the election to become a class C member as  
15           provided in part VII; or

16           (D) Are former class C retirants who return to  
17           service requiring the retirant's active  
18           membership; and

19           (4) Except for members described in paragraphs (1) and  
20           (2), class H shall consist of all employees who:

21           (A) First enter service after June 30, 2006;



1 (B) Reenter service after June 30, 2006, without  
2 vested benefit status as provided in  
3 section 88-96(b);

4 (C) Make the election to become a class H member as  
5 provided in part VIII; or

6 (D) Are former class H retirants who return to  
7 service requiring the retirant's active  
8 membership."

9 SECTION 6. Section 88-59.6, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Notwithstanding any other law to the contrary, any  
12 judge who retires under section 88-61(c) and continues in  
13 service as a judge shall be allowed membership in the system and  
14 entitlement to membership service credit for any eligible class  
15 A service; provided that such membership service shall be  
16 credited in accordance with section 88-59; and provided further  
17 that when the judge retires, it shall be as if it were for the  
18 first time, and sections [~~88-73(1)~~,] 88-73(a), 88-74(3), and 88-  
19 76 shall be used to determine the retirement allowance."

20 SECTION 7. Section 88-61, Hawaii Revised Statutes, is  
21 amended as follows:

22 1. By amending subsection (a) to read:



1           "(a) Except as otherwise provided by section 88-96, any  
2 member absent from service for four calendar years following the  
3 calendar year in which the member's employment terminated shall  
4 cease to be a member[-], and the former member's credited  
5 service shall be forfeited."

6           2. By amending subsection (c) to read:

7           "(c) The membership of an elective officer or judge in the  
8 system may be terminated upon election of the member to retire  
9 whenever the allowance for such member reaches seventy-five per  
10 cent of the member's average final compensation. The member's  
11 right to receive the retirement allowance prescribed in section  
12 88-74 after the member's future separation from service as  
13 provided in section 88-73 shall vest on the date of the  
14 election. Upon the date of the election, the member shall be  
15 entitled to receive the portion of the accumulated  
16 contributions, if any, which would be required to be returned to  
17 the member under section [~~88-74(3)(B)~~] 88-74(3) as if the  
18 member's retirement allowance had commenced on that date, and  
19 after the date of the election the member shall not be allowed  
20 or required to make any future contributions."

21           SECTION 8. Section 88-62, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) If a former member who has less than five years of  
2 credited service and who has been out of service for a period of  
3 four full calendar years or more after the year in which [~~he~~]  
4 the former member left service, or if a former member who  
5 withdrew [~~his~~] the former member's accumulated contributions  
6 returns to service, [~~he~~] the former member shall become a member  
7 in the same manner and under the same conditions as anyone first  
8 entering service; however, [~~he~~] the former member may obtain  
9 membership service credit in the manner provided by applicable  
10 law for [~~his former~~] credited service [~~as provided in section~~  
11 88-59.] that was forfeited by the member upon termination of the  
12 member's previous membership. If such member did not withdraw  
13 [~~his~~] the member's accumulated contributions prior to [~~his~~] the  
14 member's return to service, such contributions shall be returned  
15 to [~~him~~] the member as part of the process of enrolling [~~him~~]  
16 the member in the system[.] if the member's accumulated  
17 contributions are \$1,000 or less at the time of distribution.  
18 If the accumulated contributions for the service the member had  
19 when the member previously terminated employment have not  
20 previously been returned to the member, the contributions,  
21 together with regular interest thereon, shall be returned to the  
22 member upon written application by the member or as soon as



1 possible after the member attains age sixty-two. The member  
2 shall not be entitled to service credit by reason of the  
3 system's retention of the member's accumulated contributions for  
4 the service the member had when the member previously terminated  
5 employment.

6 ~~[In order to]~~ To be eligible for any benefit, ~~[he must]~~ the  
7 member shall fulfill the membership service requirements for  
8 such benefit through membership service after again becoming a  
9 member in addition to meeting any other eligibility requirement  
10 established for such benefit; provided that the membership  
11 service requirement shall be exclusive of any former service  
12 acquired in accordance with section 88-59 or any other section  
13 in this part."

14 SECTION 9. Section 88-74.5, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) The system shall finalize a ~~[retiree's]~~ retirant's  
17 pension benefit within six calendar months following the month  
18 of the ~~[retiree's]~~ retirant's retirement. For pension benefits  
19 finalized after the sixth calendar month following the month of  
20 the ~~[retiree's]~~ retirant's retirement, an interest payment  
21 amounting to four and one-half per cent per annum shall be paid  
22 to the ~~[retiree.]~~ retirant. Interest shall be calculated on the



1 difference between the amount the [~~retiree~~] retirant is entitled  
2 to receive from the [~~retiree's~~] retirant's retirement date up to  
3 the day the payment is made and the amount the [~~retiree~~]  
4 retirant was paid, including any refund of member contributions.

5 Beginning January 1, 2004, or the first day of the seventh  
6 calendar month following the month of retirement, whichever is  
7 later, interest payments calculated as simple interest shall be  
8 prorated up to the date payment is made; provided that any  
9 pension adjustment made after the [~~retiree's~~] retirant's pension  
10 has once been finalized shall not be subject to any interest  
11 payment.

12 The system shall finalize ordinary and service-connected  
13 disability retirements within six calendar months following the  
14 month that the member's retirement is approved by the board of  
15 trustees or the actual retirement date specified by the member,  
16 whichever is later."

17 SECTION 10. Section 88-76, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§88-76 Allowance on ordinary disability retirement.** Upon  
20 retirement for ordinary disability, a member shall receive a  
21 maximum retirement allowance of one and three-fourths per cent  
22 of the member's average final compensation for each [~~full~~] year



1 of credited service; except that for each year of credited  
2 service as a judge, an elective officer, or a legislative  
3 officer, the member shall receive a maximum retirement allowance  
4 computed as provided in section 88-74(3) or (4), as applicable.  
5 The minimum retirement allowance payable under this section  
6 shall be thirty per cent of the member's average final  
7 compensation."

8 SECTION 11. Section 88-81.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10 "(b) Notwithstanding subsection (a), any member who  
11 accrued a benefit prior to July 1, 2004, based on annual  
12 compensation in excess of the limit set forth in section  
13 401(a)(17) of the Internal Revenue Code of 1986, as amended,  
14 shall receive a nontax-qualified benefit equal to the difference  
15 between:

16 (1) The pension benefit that would be payable at the  
17 earliest age the member could retire with an unreduced  
18 benefit, based on the member's years of credited  
19 service, the member's class of service, and the  
20 member's average final compensation as of June 30,  
21 2004, without regard to the limit under section  
22 401(a)(17); and





1           (2) The tax-qualified pension benefit that would be  
2           payable at the earliest age the member could retire  
3           with an unreduced benefit, based on the member's years  
4           of credited service and the member's class of service  
5           as of June 30, 2004, and the member's average final  
6           compensation as limited by section 401(a)(17) as of  
7           the earliest age the member could retire with an  
8           unreduced benefit, or, upon the member's termination  
9           of service, if earlier."

10           SECTION 12. Section 88-83, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§88-83 Election of [~~mode of~~] retirement allowance[~~-~~]**  
13 **option.** (a) [~~Maximum allowance-~~] Upon retirement, any member  
14 may elect to receive the maximum retirement allowance to which  
15 the member is entitled computed in accordance with section 88-  
16 74, 88-76, or 88-80 and in the event of the member's death,  
17 there shall be paid to the member's beneficiary, otherwise to  
18 the member's estate, the difference between the balance of the  
19 member's accumulated contributions at the time of the member's  
20 retirement and the retirement allowance paid or payable to the  
21 member prior to death.



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

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

17           Option 2: The member may elect to receive a lesser  
18 retirement allowance during the member's lifetime and have those  
19 allowances, including cumulative post retirement allowances, if  
20 applicable, continued after the member's death to the member's  
21 beneficiary [~~during the lifetime of the person.~~] designated at  
22 the time of the member's retirement, for the life of the



1 beneficiary. In the event of death of the beneficiary prior to  
2 that of the retirant, all further payments shall cease upon the  
3 death of the retirant; provided that for members retiring after  
4 November 30, 2004, in the event that the retirant's beneficiary  
5 dies at any time after the retirant retired, but before the  
6 death of the retirant, the retirant, upon the death of the  
7 retirant's beneficiary, shall receive a retirement allowance,  
8 including cumulative post retirement allowances, calculated as  
9 if the retirant had selected the maximum retirement allowance to  
10 which the member is entitled. Only one beneficiary may be  
11 designated under this option. The beneficiary designated under  
12 this option shall be a natural person, and benefits under this  
13 option may only be paid to a natural person.

14 Option 3: The member may elect to receive a lesser  
15 retirement allowance during the member's lifetime and have one-  
16 half of such allowance, including fifty per cent of all  
17 cumulative post retirement allowances, if applicable, continued  
18 after the member's death to the member's beneficiary [~~during the~~  
19 ~~lifetime of the person.~~] designated at the time of the member's  
20 retirement, for the life of the beneficiary. In the event of  
21 death of the beneficiary prior to that of the retirant, all  
22 further payments shall cease upon the death of the retirant;



1 provided that for members retiring after November 30, 2004, in  
2 the event that the retirant's beneficiary dies at any time after  
3 the retirant retired, but before the death of the retirant, the  
4 retirant, upon the death of the retirant's beneficiary, shall  
5 receive a retirement allowance, including cumulative post  
6 retirement allowances, calculated as if the retirant had  
7 selected the maximum retirement allowance to which the member is  
8 entitled. Only one beneficiary may be designated under this  
9 option. The beneficiary designated under this option shall be a  
10 natural person, and benefits under this option may only be paid  
11 to a natural person.

12 Option 4: The member may elect to receive a lesser  
13 retirement allowance during the member's lifetime and provide  
14 some other benefit to the member's beneficiary in accordance  
15 with the member's own specification; provided that this election  
16 shall be certified by the actuary to be the actuarial equivalent  
17 of the member's retirement allowance and shall be approved by  
18 the board.

19 Option 5: The member may elect to receive the balance of  
20 the member's accumulated contributions at the time of retirement  
21 in a lump sum and, during the member's lifetime, a retirement  
22 allowance equal to the maximum retirement allowance reduced by



1 the actuarial equivalent of these contributions. Upon the death  
2 of the retirant, all further payments shall cease. Only a  
3 member retiring from service having at least ten years of  
4 credited service or for disability may elect this mode of  
5 retirement.

6 To receive benefits, the beneficiary [~~must~~] shall have been  
7 designated by the member in the form and manner prescribed by  
8 the board.

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

12 (b) In the event of the death of a member after the date  
13 of the filing of the member's written application to retire, but  
14 prior to the retirement date designated by the member, and, if  
15 the member was eligible to retire on the date of the member's  
16 death, the member's designated beneficiary[, ~~if the member was~~  
17 ~~eligible to retire on the date of the [member's] death,~~] may  
18 elect to receive either death benefits under section 88-84 or  
19 the allowance under the option selected by the member that would  
20 have been payable had the member retired. The effective date of  
21 the member's retirement shall be [a] the first day of a month,  
22 except for the month of December when the effective date of



1 retirement may be on the first or last day of the month, and  
2 shall be no earlier than the later of thirty days from the date  
3 the member's retirement application was filed or the day  
4 following the member's date of death. The election may not be  
5 made if, at the time of the member's death, there are  
6 individuals who are eligible to receive death benefits under  
7 section 88-85 who have made a claim for the benefits; provided  
8 that, if the designated beneficiary is an individual eligible to  
9 receive benefits under section 88-85, the designated beneficiary  
10 may receive benefits pursuant to an election made under this  
11 section pending disposition of the claim for benefits under  
12 section 88-85.

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

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

17 (A) Specifies the retirement date, the benefit option  
18 selected, and the beneficiary designated by the  
19 member;

20 (B) Provides information indicating the effect of the  
21 election; and



- 1 (C) Is determined adequate by rules established by  
2 the board pursuant to chapter 91; [~~or~~]
- 3 (2) The member selects option 2 or option 3 and designates  
4 the spouse or reciprocal beneficiary as the  
5 beneficiary; or
- 6 (3) It is established to the satisfaction of the board  
7 that the notice required under paragraph (1) cannot be  
8 provided because:
- 9 (A) There is no spouse or reciprocal beneficiary;
- 10 (B) The spouse or reciprocal beneficiary cannot be  
11 located;
- 12 (C) The member has failed to notify the system that  
13 the member has a spouse or reciprocal beneficiary  
14 or has failed to provide the system with the name  
15 and address of the member's spouse or reciprocal  
16 beneficiary; or
- 17 (D) Of other reasons, as established by rules of the  
18 board pursuant to chapter 91. Any notice  
19 provided to a spouse or reciprocal beneficiary,  
20 or determination that the notification of a  
21 spouse or reciprocal beneficiary cannot be  
22 provided, shall be effective only with respect to



1           that spouse or reciprocal beneficiary. The  
2           system will rely upon the representations made by  
3           a member as to whether the member has a spouse or  
4           reciprocal beneficiary and the name and address  
5           of the member's spouse or reciprocal beneficiary.

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

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

16           (e) The system shall not be liable for any false  
17           statements made to the system by the member[-] or by the  
18           member's employer.

19           (f) In the event of the death of the retirant within one  
20           year after the date of retirement, the retirant's designated  
21           beneficiary may elect to receive either the death benefit under  
22           the retirement allowance option selected by the retirant, or





1 such benefits as would have been paid under section 88-84 had  
2 the retirant died immediately prior to retirement, less any  
3 payments which the retirant received.

4 (g) The increase in the retirant's benefit under options  
5 2, 3, and, if applicable, 4 upon the death of the retirant's  
6 designated beneficiary shall be effective the first day of the  
7 month following the date of death of the designated beneficiary.  
8 The retirant shall notify the system in writing and provide a  
9 certified copy of the beneficiary's death certificate. The  
10 system shall make retroactive benefit payments to the retirant,  
11 not to exceed six months from the date the written notification  
12 and the certified copy of the death certificate are received by  
13 the system. The retroactive payments shall be without interest.

14 (h) Upon a member's retirement:

15 (1) The member's election of a retirement allowance option  
16 shall be irrevocable; and

17 (2) The member's designation of a beneficiary shall be  
18 irrevocable if the retirement option elected by the  
19 member is:

20 (A) Option 2 or 3;



- 1           (B) An option that includes option 2 or 3 in  
2           combination with some other form of benefit  
3           payment; or  
4           (C) Any other option for which the actuarial  
5           equivalent of the option to the maximum  
6           retirement allowance is determined at the time of  
7           the member's retirement in whole or in part on  
8           the age of the member's beneficiary."

9           SECTION 13. Section 88-84, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§88-84 Ordinary death benefit.** (a) Upon receipt by the  
12 system of proper proof of a member's death occurring in service  
13 or while on authorized leave without pay, there shall be paid to  
14 the member's designated beneficiary an ordinary death benefit  
15 consisting of:

16           (1) The member's accumulated contributions and, if no  
17 pension is payable under section 88-85, an amount  
18 equal to fifty per cent of the compensation earned by  
19 the member during the year immediately preceding the  
20 member's death if the member had at least one year but  
21 not more than ten full years of credited service,  
22 which amount shall increase by five per cent for each



1 full year of service in excess of ten years, to a  
2 maximum of one hundred per cent of the compensation;  
3 provided that if the member had at least one year of  
4 credited service, the amount, together with the  
5 member's accumulated contributions shall not be less  
6 than one hundred per cent of the compensation;

7 (2) If the member had ten or more years of credited  
8 service at the time of death in service, and the death  
9 occurred after June 30, 1988, the member's designated  
10 beneficiary may elect to receive in lieu of any other  
11 payment provided in this section, the allowance that  
12 would have been payable as if the member had retired  
13 on the first day of a month following the member's  
14 death, except for the month of December when  
15 retirement on the first or last day of the month shall  
16 be allowed. Benefits payable under this paragraph  
17 shall be calculated under option 3 of section 88-83  
18 and computed on the basis of section 88-76; or

19 (3) If the member was eligible for service retirement at  
20 the time of death in service, the member's designated  
21 beneficiary may elect to receive in lieu of any other  
22 payment provided in this section, the allowance that



1 would have been payable as if the member had retired  
2 on the first day of a month following the member's  
3 death, except for the month of December when  
4 retirement on the first or last day of the month shall  
5 be allowed. Benefits payable under this paragraph  
6 shall be calculated under option 2 of section 88-83.

7 (b) If the member's designation of beneficiary is void as  
8 specified in section 88-93, or if the member did not designate a  
9 beneficiary, there shall be payable:

10 (1) To the surviving spouse or reciprocal beneficiary, a  
11 benefit as specified under subsection (a)(1), (2), or  
12 (3);

13 (2) To the deceased member's [~~dependent child, or~~]  
14 children under age eighteen, if there is no surviving  
15 spouse or reciprocal beneficiary, an equally divided  
16 benefit as specified under subsection (a)(1); or

17 (3) To the deceased member's estate, if there is no  
18 surviving spouse or reciprocal beneficiary [~~or~~  
19 ~~dependent child or~~] and no children[~~r~~] under age  
20 eighteen, a benefit as specified under subsection  
21 (a)(1).



1 (c) For the purposes of this section, a year round school  
2 employee shall be considered in service during the July and  
3 August preceding a transfer to a traditional school schedule if  
4 the employee was in service for the entire prior school year and  
5 has a contract for the upcoming traditional school year.

6 (d) The application for ordinary death benefits shall be  
7 filed no later than three years from the date of the member's  
8 death."

9 SECTION 14. Section 88-85, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) [~~Upon the receipt of proper proofs of a member's~~  
12 ~~death by the board of trustees,~~] In the case of an accidental  
13 death as determined by the board of trustees pursuant to section  
14 88-85.5, there shall be paid to the member's designated  
15 beneficiary or to the member's estate the amount of the member's  
16 accumulated contributions and [~~if, upon the receipt of evidence~~  
17 ~~or proofs that the death was the natural and proximate result of~~  
18 ~~an accident occurring at some definite time and place while the~~  
19 ~~member was in the actual performance of duty, or that the death~~  
20 ~~was due to the result of some occupational hazard,~~ the board  
21 shall decide that the death was the result of an accident in the  
22 performance of duty and not caused by wilful negligence on the



1 ~~part of the member,~~] there shall be paid in lieu of the ordinary  
2 death benefit payable under section 88-84, [~~effective on the~~  
3 ~~first day of a month following the member's death, except for~~  
4 ~~the month of December when benefits shall be effective on the~~  
5 ~~first or last day of the month,~~] a pension of one-half of the  
6 average final compensation of the member:

- 7       (1) To the surviving spouse or reciprocal beneficiary of  
8           the member to continue until the surviving spouse or  
9           reciprocal beneficiary remarries, marries, or enters  
10          into a new reciprocal beneficiary relationship;
- 11       (2) If there be no surviving spouse or reciprocal  
12          beneficiary, or if the surviving spouse or reciprocal  
13          beneficiary dies or remarries, marries, or enters into  
14          a new reciprocal beneficiary relationship before any  
15          child of the deceased member shall have attained the  
16          age of eighteen years, then to the deceased member's  
17          child or children under such age, divided in such  
18          manner as the board in its discretion shall determine,  
19          to continue as a joint and survivor pension of one-  
20          half of the deceased member's final compensation until  
21          every child dies, or attains such age; or



1 (3) If there is no surviving spouse or reciprocal  
2 beneficiary or child under the age of eighteen years  
3 surviving the deceased member, then to the deceased  
4 member's dependent father or dependent mother, as the  
5 deceased member shall have nominated by written  
6 designation duly acknowledged and filed with the  
7 board, or if there is no such nomination, then to the  
8 deceased member's dependent father or to the deceased  
9 member's dependent mother as the board, in its  
10 discretion, shall direct to continue for life.

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

15 SECTION 15. Section 88-85.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "~~§88-85.5 [Accidental claims]~~ Applications for accidental  
18 death benefits; approval by the board of trustees. (a) An  
19 application for service-connected accidental death benefits may  
20 be filed with the system by or on behalf of the claimant [~~as~~  
21 ~~specified in sections]~~ pursuant to section 88-85, 88-286, [and]  
22 or 88-339[-], on a form provided by the system. The application



1 shall be filed no later than [~~two~~] three years from the date of  
2 [~~receipt of the written notification from the system.~~] the  
3 member's death.

4 (b) [~~If a claim is filed,~~] After the claimant files an  
5 application for service-connected accidental death benefits, the  
6 system shall obtain the following:

- 7 (1) A copy of the employer's report of the accident  
8 submitted by the employer to the department of labor  
9 and industrial relations, workers' compensation  
10 division, and other reports relating to the accident;
- 11 (2) A certified statement from the head of the department  
12 in which the deceased member was employed, stating the  
13 date, time, and place of the accident, and the nature  
14 of the service being performed when the accident  
15 occurred. The statement shall also include an opinion  
16 as to whether or not the accident was the result of  
17 wilful negligence on the deceased member's part;
- 18 (3) A copy of the latest position description of the  
19 deceased member's duties and responsibilities;
- 20 (4) A certified copy of the death certificate; and
- 21 (5) A copy of an autopsy report, if performed.





1 ~~(c) If the medical board certifies that the death was the~~  
2 ~~natural and proximate result of an accident occurring at some~~  
3 ~~definite time and place while the member was in the actual~~  
4 ~~performance of duty, or that the death was due to the result of~~  
5 ~~some occupational hazard, the board shall decide that the death~~  
6 ~~was the result of an accident in the performance of duty and not~~  
7 ~~caused by wilful negligence on the part of the member.]~~

8 (c) Upon the system's receipt of the application and  
9 documents specified in subsection (b), the medical board shall  
10 determine and certify to the board of trustees whether the  
11 member's death was an accidental death as defined in section 88-  
12 21.

13 (d) The board of trustees may accept as conclusive as to  
14 whether or not the member's death was caused by wilful  
15 negligence on the part of the member:

16 (1) A certification made by the head of the agency in  
17 which the member is employed; or

18 (2) A finding by the medical board.

19 ~~[(d)]~~ (e) After the medical board submits its  
20 certification to the system, the board of trustees shall approve  
21 or disapprove the application. Upon approval[7] of an  
22 application, benefits shall be paid [effective the date the



1 ~~claim was filed with the system, in accordance with sections]~~ as  
2 provided in section 88-85, 88-286, [and] or 88-339."

3 SECTION 16. Section 88-93, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§88-93 Named beneficiaries by [active] members[+] and by**  
6 **former employees with vested benefit status; effect of marriage,**  
7 **entry into reciprocal beneficiary relationship, divorce,**  
8 **termination of reciprocal beneficiary relationship, or death.**

9 (a) All ~~[nominations by]~~ written ~~[designation]~~ designations of  
10 beneficiaries for members and for former employees with vested  
11 benefit status shall become null and void when:

12 (1) The beneficiary predeceases the member[+] or former  
13 employee;

14 (2) The member or former employee is divorced from the  
15 beneficiary;

16 (3) The member or former employee is unmarried, and  
17 subsequently marries; or

18 (4) The member or former employee enters into or  
19 terminates a reciprocal beneficiary relationship.

20 Any of the above events shall operate as a complete revocation  
21 of such designation and, except as provided in sections 88-84(b)  
22 and 88-333(b), all benefits payable by reason of the death of



1 the member or former employee shall be payable to the member's  
2 [~~legal representatives~~] or former employee's estate unless,  
3 after the death, divorce or marriage, or entry into or  
4 termination of reciprocal beneficiary relationship, the member  
5 or former employee makes other provision in a written  
6 designation duly executed and filed with the board of trustees.

7 (b) Subsection (a) shall not apply to active members who  
8 are former retirants who have returned to service. The  
9 beneficiaries of retirants who return to service may not be  
10 changed except to the extent provided under the retirement  
11 allowance option selected by the former retirant when the former  
12 retirant first retired."

13 SECTION 17. Section 88-95, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§88-95 Withholding of dues and insurance premiums.** A  
16 retired member, if the retired member requests in writing, may  
17 have withheld from the retired member's pension, annuity, or  
18 retirement allowance, payments to the [~~Hawaii public employees~~  
19 ~~health~~] employer-union health benefits trust fund and employee  
20 organizations for dues and insurance premiums."

21 SECTION 18. Section 88-96, Hawaii Revised Statutes, is  
22 amended by amending subsections (a) and (b) to read as follows:



1           "(a) Any member who ceases to be an employee and who has  
2 fewer than five years of credited service, excluding unused sick  
3 leave, shall, upon application to the board of trustees, be paid  
4 all of the member's accumulated contributions and the member's  
5 membership shall thereupon terminate[+] and all credited service  
6 shall be forfeited; provided that any such member shall not be  
7 paid the member's accumulated contributions:

8           (1) If the member becomes an employee again within fifteen  
9           calendar days from the date the member ceased to be an  
10          employee; or

11          (2) If, at the time the application for return of  
12          accumulated contributions is received by the board of  
13          trustees, the member has become an employee again.

14          ~~[The former employee's membership shall not continue after~~  
15 ~~the fourth full year following the calendar year in which the~~  
16 ~~individual's employment terminates. The system, as soon as~~  
17 ~~possible after termination of a former employee's membership,~~  
18 ~~shall return to the former employee the former employee's~~  
19 ~~accumulated contributions.]~~ Regular interest shall be credited  
20 to the former employee's account until the former employee's  
21 accumulated contributions are returned to the former  
22 employee[-]; provided that the former employee's membership



1 shall not continue after the fourth full year following the  
2 calendar year in which the individual's employment terminates.  
3 Upon termination of the former employee's membership, the former  
4 employee's credited service shall be forfeited and, if the  
5 former employee's accumulated contributions are \$1,000 or less  
6 at the time of distribution, the system shall return the former  
7 employee's contributions to the former employee. If the former  
8 employee does not become an employee again and if the former  
9 employee's accumulated contributions have not been withdrawn by  
10 the former employee or previously returned by the system to the  
11 former employee, the system shall return the former employee's  
12 accumulated contributions to the former employee as soon as  
13 possible after the former employee attains age sixty-two.

14 (b) Any member having five or more years of credited  
15 service who ceases to be an employee, upon application to the  
16 board of trustees, shall be paid all of the member's accumulated  
17 contributions[+] and thereupon the former employee's membership  
18 shall terminate and all credited service shall be forfeited;  
19 provided that any such member shall not be paid the member's  
20 accumulated contributions:



1 (1) If the member becomes an employee again within fifteen  
2 calendar days from the date the member ceased to be an  
3 employee; or

4 (2) If, at the time the application for return of  
5 accumulated contributions is received by the board of  
6 trustees, the member has become an employee again.

7 If the contributions are not withdrawn by the ~~[member]~~ former  
8 employee within four calendar years following the calendar year  
9 in which the ~~[member's]~~ former employee's employment terminates,  
10 the ~~[member]~~ former employee shall have established vested  
11 benefit status and shall be eligible for the service retirement  
12 benefit in effect at the time of the ~~[member's]~~ former  
13 employee's retirement, payable in accordance with this chapter  
14 ~~[and the contributions shall not be withdrawn by the member~~  
15 ~~thereafter.]~~ provided that if the former employee withdraws the  
16 former employee's accumulated contributions, the former  
17 employee's vested benefit status shall terminate and all  
18 credited service shall be forfeited."

19 SECTION 19. Section 88-98, Hawaii Revised Statutes, as  
20 amended, is amended to read a follows:

21 "**§88-98 Return to service of a retirant.** (a) Any  
22 retirant who returns to employment requiring active membership



1 shall be reenrolled as an active member of the system in the  
2 same class from which the retirant originally retired and the  
3 retirant's retirement allowance shall be suspended.

4 (1) If the retirant returns to service before July 1,  
5 1998, and again retires, the retirant's retirement  
6 allowance shall consist of:

7 (A) For members with fewer than three years of  
8 credited service during the member's period of  
9 reemployment, the allowance to which the member  
10 was entitled under the [~~mode of~~] retirement  
11 allowance option selected when the member  
12 previously retired and which was suspended; plus,  
13 for the period of service during the member's  
14 reemployment, the allowance to which the member  
15 is entitled for that service based on the [~~mode~~  
16 ~~of~~] retirement allowance option initially  
17 selected and computed for the member's age,  
18 average final compensation, and other factors in  
19 accordance with the benefit formula in existence  
20 at the time of the member's latest retirement; or  
21 (B) For members with three or more years of credited  
22 service during the member's period of



1           reemployment, the allowance computed as if the  
2           member were retiring for the first time; provided  
3           that in no event shall the allowance be less than  
4           the amount determined in accordance with  
5           subparagraph (A);

6           (2) If the retirant returns to service after June 30,  
7           1998, and again retires, the retirant's retirement  
8           allowance shall be computed in accordance with  
9           paragraph (1)(A), regardless of the number of years of  
10          service in the reemployment period~~[; and]~~.

11          ~~[(3)]~~ (b) Any retirant who received the special retirement  
12          incentive benefit under Act 253, Session Laws of Hawaii 2000,  
13          and is reemployed by the State or a county in any capacity  
14          shall:

15          ~~[(A)]~~ (1) Have the retirant's retirement allowance  
16          suspended;

17          ~~[(B)]~~ (2) Forfeit the special retirement incentive benefit  
18          and any related benefit provided by chapter 88; and

19          ~~[(C)]~~ (3) Be subject to the age and service requirements  
20          under section 88-73 when the member again retires.

21          (c) If a retirant's designation of beneficiary was  
22          irrevocable upon the retirant's initial retirement, the retirant





1 may not change the retirant's designated beneficiary when the  
2 retirant returns to service or when the former retirant again  
3 retires.

4 (d) The board of trustees shall adopt such rules as may be  
5 required to administer the purposes of this section."

6 SECTION 20. Section 88-119, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§88-119 Investments.** Investments may be made in:

9 (1) Real estate loans and mortgages. Obligations (as  
10 defined in section 431:6-101) of any of the following  
11 classes:

12 (A) Obligations secured by mortgages of nonprofit  
13 corporations desiring to build multirental units  
14 (ten units or more) subject to control of the  
15 government for occupancy by families displaced as  
16 a result of government action;

17 (B) Obligations secured by mortgages insured by the  
18 Federal Housing Administration;

19 (C) Obligations for the repayment of home loans made  
20 under the Servicemen's Readjustment Act of 1944  
21 or under Title II of the National Housing Act;



1 (D) Other obligations secured by first mortgages on  
2 unencumbered improved real estate owned in fee  
3 simple; provided that the amount of the  
4 obligation at the time investment is made therein  
5 shall not exceed eighty per cent of the value of  
6 the real estate and improvements mortgaged to  
7 secure it, and except that the amount of the  
8 obligation at the time investment is made therein  
9 may exceed eighty per cent but no more than  
10 ninety per cent of the value of the real estate  
11 and improvements mortgaged to secure it; provided  
12 further that the obligation is insured or  
13 guaranteed against default or loss under a  
14 mortgage insurance policy issued by a casualty  
15 insurance company licensed to do business in the  
16 State. The coverage provided by the insurer  
17 shall be sufficient to reduce the system's  
18 exposure to not more than eighty per cent of the  
19 value of the real estate and improvements  
20 mortgaged to secure it. The insurance coverage  
21 shall remain in force until the principal amount  
22 of the obligation is reduced to eighty per cent



1 of the market value of the real estate and  
2 improvements mortgaged to secure it, at which  
3 time the coverage shall be subject to  
4 cancellation solely at the option of the board of  
5 trustees. Real estate shall not be deemed to be  
6 encumbered within the meaning of this  
7 subparagraph by reason of the existence of any of  
8 the restrictions, charges, or claims described in  
9 section 431:6-308;

10 (E) Other obligations secured by first mortgages of  
11 leasehold interests in improved real estate;  
12 provided that:

13 (i) Each such leasehold interest at such time  
14 shall have a current term extending at least  
15 two years beyond the stated maturity of the  
16 obligation it secures; and

17 (ii) The amount of the obligation at the time  
18 investment is made therein shall not exceed  
19 eighty per cent of the value of the  
20 respective leasehold interest and  
21 improvements, and except that the amount of  
22 the obligation at the time investment is



1                   made therein may exceed eighty per cent but  
2                   no more than ninety per cent of the value of  
3                   the leasehold interest and improvements  
4                   mortgaged to secure it;  
5                   provided further that the obligation is insured  
6                   or guaranteed against default or loss under a  
7                   mortgage insurance policy issued by a casualty  
8                   insurance company licensed to do business in the  
9                   State. The coverage provided by the insurer  
10                  shall be sufficient to reduce the system's  
11                  exposure to not more than eighty per cent of the  
12                  value of the leasehold interest and improvements  
13                  mortgaged to secure it. The insurance coverage  
14                  shall remain in force until the principal amount  
15                  of the obligation is reduced to eighty per cent  
16                  of the market value of the leasehold interest and  
17                  improvements mortgaged to secure it, at which  
18                  time the coverage shall be subject to  
19                  cancellation solely at the option of the board of  
20                  trustees;  
21                  (F) Obligations for the repayment of home loans  
22                  guaranteed by the department of Hawaiian home



1 lands pursuant to section 214(b) of the Hawaiian  
2 Homes Commission Act, 1920; and  
3 (G) Obligations secured by second mortgages on  
4 improved real estate for which the mortgagor  
5 procures a second mortgage on the improved real  
6 estate for the purpose of acquiring the  
7 leaseholder's fee simple interest in the improved  
8 real estate; provided that any prior mortgage  
9 does not contain provisions that might jeopardize  
10 the security position of the retirement system or  
11 the borrower's ability to repay the mortgage  
12 loan.

13 The board of trustees may retain such real estate,  
14 including leasehold interests therein, as it may  
15 acquire by foreclosure of mortgages or in enforcement  
16 of security, or as may be conveyed to it in  
17 satisfaction of debts previously contracted; provided  
18 that all such real estate, other than leasehold  
19 interests, shall be sold within five years after  
20 acquiring the same, subject to extension by the  
21 governor for additional periods not exceeding five  
22 years each, and that all such leasehold interests



1 shall be sold within one year after acquiring the  
2 same, subject to extension by the governor for  
3 additional periods not exceeding one year each;

4 (2) Government obligations, etc. Obligations of any of  
5 the following classes:

6 (A) Obligations issued or guaranteed as to principal  
7 and interest by the United States or by any state  
8 thereof or by any municipal or political  
9 subdivision or school district of any of the  
10 foregoing; provided that principal of and  
11 interest on such obligations are payable in  
12 currency of the United States; or sovereign debt  
13 instruments issued by agencies of, or guaranteed  
14 by foreign governments;

15 (B) Revenue bonds, whether or not permitted by any  
16 other provision hereof, of the State or any  
17 municipal or political subdivision thereof,  
18 including the board of water supply of the city  
19 and county of Honolulu, and street or improvement  
20 district bonds of any district or project in the  
21 State; and



- 1 (C) Obligations issued or guaranteed by any federal  
2 home loan bank including consolidated federal  
3 home loan bank obligations, the Home Owner's Loan  
4 Corporation, the Federal National Mortgage  
5 Association, or the Small Business  
6 Administration;
- 7 (3) Corporate obligations. Below investment grade or  
8 nonrated debt instruments, foreign or domestic, in  
9 accordance with investment guidelines adopted by the  
10 board of trustees;
- 11 (4) Preferred and common stocks. Shares of preferred or  
12 common stock of any corporation created or existing  
13 under the laws of the United States or of any state or  
14 district thereof or of any country;
- 15 (5) Obligations eligible by law for purchase in the open  
16 market by federal reserve banks;
- 17 (6) Obligations issued or guaranteed by the International  
18 Bank for Reconstruction and Development, the Inter-  
19 American Development Bank, the Asian Development Bank,  
20 or the African Development Bank;
- 21 (7) Obligations secured by collateral consisting of any of  
22 the securities or stock listed above and worth at the



- 1 time the investment is made at least fifteen per cent  
2 more than the amount of the respective obligations;
- 3 (8) Insurance company obligations. Contracts and  
4 agreements supplemental thereto providing for  
5 participation in one or more accounts of a life  
6 insurance company authorized to do business in Hawaii,  
7 including its separate accounts, and whether the  
8 investments allocated thereto are comprised of stocks  
9 or other securities or of real or personal property or  
10 interests therein;
- 11 (9) Interests in real property. Interests in improved or  
12 productive real property in which, in the informed  
13 opinion of the board of trustees, it is prudent to  
14 invest funds of the system. For purposes of this  
15 paragraph, "real property" includes any property  
16 treated as real property either by local law or for  
17 federal income tax purposes. Investments in improved  
18 or productive real property may be made directly or  
19 through pooled funds, including common or collective  
20 trust funds of banks and trust companies, group or  
21 unit trusts, limited partnerships, limited liability  
22 companies, investment trusts, title-holding





1 corporations recognized under section 501(c) of the  
2 Internal Revenue Code of 1986, as amended, similar  
3 entities that would protect the system's interest, and  
4 other pooled funds invested on behalf of the system by  
5 investment managers retained by the system;

6 (10) Other securities and futures contracts. Securities  
7 and futures contracts in which in the informed opinion  
8 of the board of trustees it is prudent to invest funds  
9 of the system, including currency, interest rate,  
10 bond, and stock index futures contracts and options on  
11 such contracts to hedge against anticipated changes in  
12 currencies, interest rates, and bond and stock prices  
13 that might otherwise have an adverse effect upon the  
14 value of the system's securities portfolios; covered  
15 put and call options on securities; and stock; whether  
16 or not the securities, stock, futures contracts, or  
17 options on futures are expressly authorized by or  
18 qualify under the foregoing paragraphs, and  
19 notwithstanding any limitation of any of the foregoing  
20 paragraphs (including paragraph (4)); and

21 (11) Private placements. Investments in institutional  
22 blind pool limited partnerships or limited liability



1           companies or direct investments that make private debt  
2           and equity investments in privately held companies,  
3           including but not limited to investments in Hawaii  
4           high technology businesses or venture capital  
5           investments that, in the informed opinion of the board  
6           of trustees, are appropriate to invest funds of the  
7           system. In evaluating venture capital investments,  
8           the board of trustees shall consider, among other  
9           things, the impact an investment may have on job  
10          creation in Hawaii and on the state economy."

11          SECTION 21. Section 88-132, Hawaii Revised Statutes, is  
12          amended to read as follows:

13          "**§88-132 Service credit; payment of contributions.** (a)  
14          Every active member of the system who leaves active service of  
15          the State or any county for the purpose of entering the military  
16          service of the United States in time of war or declared national  
17          or state emergency, or is called involuntarily to active duty  
18          after June 24, 1950, shall, so long as the member remains in  
19          military service, be allowed service credit in the system to the  
20          same extent as if the member were continuously in the active  
21          service of the State or county, as the case may be, in the  
22          position which the member held immediately prior to the member's



1 entry into military service; provided that in no event shall the  
2 allowance of service credit exceed a period of four years.

3 (b) The State or county, as the case may be, in whose  
4 service the member was employed immediately prior to the  
5 member's induction into military service shall~~[, so long as the~~  
6 ~~member remains in military service,]~~ pay all contributions to  
7 the pension accumulation fund and to the annuity savings fund,  
8 and any other payment to the system, which would otherwise be  
9 payable to the system by the State, the county, or the member if  
10 the member ~~[were]~~ had remained continuously in the active  
11 service of the State or county, as the case may be, ~~[so long as~~  
12 ~~the member remains continuously in]~~ during the period of the  
13 member's military service~~[, but in no event shall];~~ provided  
14 that:

15 (1) The cumulative length of time for which a member shall  
16 be entitled to payment ~~[be made for more than]~~ of the  
17 contributions shall not exceed four years~~[. This~~  
18 ~~section shall apply only to members who return];~~

19 (2) The member returns to state or county government  
20 service within ninety days of release from active duty  
21 or dies in the performance of the member's military  
22 service; and



1       (3) The member's release from active duty was under  
2            honorably conditions.

3        (c) The State or county, as the case may be, shall pay all  
4 contributions required to be made under subsection (b) within  
5 sixty days after:

6        (1) The member returns to state or county government  
7            service; or

8        (2) The State or county, as the case may be, receives  
9            notice of the member's death in the performance of the  
10           member's military duty.

11       (d) If the State or county, as the case may be, fails to  
12 pay the contributions within the time specified in subsection  
13 (c), the State or county, as the case may be, shall also pay to  
14 the system interest at the rate of four and one-half per cent  
15 per annum from the date the member returned to state or county  
16 government service or the date of the member's death in the  
17 performance of the member's military duty until payment is made.  
18 Interest paid on the portion of the contributions that would  
19 have been payable by the member shall be included in the  
20 member's accumulated contributions."

21       SECTION 22. Section 88-137, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "**§88-137 Ordinary death benefit.** If any service member  
2 dies, the service member shall be deemed to be on authorized  
3 leave without pay for the purposes of the ordinary death benefit  
4 provided in sections 88-84, 88-286(b), and 88-338 [~~shall be paid~~  
5 ~~to the service member's estate or the service member's~~  
6 ~~designated beneficiary~~]."

7           SECTION 23. Section 88-138, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§88-138 Accidental death benefit.** [~~The estate, or~~  
10 ~~designated beneficiary of a~~] If a service member [who] dies by  
11 accident, act of war, or other cause, occurring while the  
12 service member is not in the active service of the State or any  
13 county, [shall not be entitled to] the death shall not be an  
14 accidental death [benefit provided by] and shall not be eligible  
15 for accidental death benefits under sections 88-85, 88-286(c),  
16 and 88-339; however, the [~~estate or the beneficiary shall be~~  
17 ~~entitled to the~~] ordinary death benefit shall be payable as  
18 provided in section 88-137."

19           SECTION 24. Section 88-140, Hawaii Revised Statutes, is  
20 amended to read as follows:

21           "**§88-140 Duration of service member's status.** [~~A service~~  
22 ~~member shall continue to be entitled to the benefits of the~~



1  ~~Servicemen's Act until the expiration of ninety days after the~~  
2  ~~termination of the service member's service in the armed forces~~  
3  ~~unless the service member shall within the ninety day period~~  
4  ~~have reentered the service of the State or any county, in a~~  
5  ~~position which constitutes the service member an employee as~~  
6  ~~defined by section 88-21, in which latter event the service~~  
7  ~~member's status thenceforth shall be the same as that of any~~  
8  ~~other regular member of the system in the service without any~~  
9  ~~loss of the service credit preserved and allowed to the service~~  
10  ~~member under the Servicemen's Act, or unless the service member~~  
11  ~~shall have resigned before the expiration of the ninety-day~~  
12  ~~period and waived the service member's right to such~~  
13  ~~reemployment. In the event the service member fails to reenter~~  
14  ~~the service of the State or any county within the ninety day~~  
15  ~~period, and shall not have resigned from the system and waived~~  
16  ~~the service member's right to reemployment, the service member's~~  
17  ~~status thereafter shall be the same as that of a regular member~~  
18  ~~who terminated the regular member's employment as such an~~  
19  ~~employee and such termination shall be deemed to have occurred~~  
20  ~~on the ninetieth day after the termination of the service~~  
21  ~~member's service in the armed forces.~~



1 ~~A service member who voluntarily extends the service~~  
2 ~~member's period of service in the armed forces ninety or more~~  
3 ~~days beyond the expiration date of the service member's initial~~  
4 ~~enlistment or the period for which the service member was~~  
5 ~~inducted or the period for which the service member was ordered~~  
6 ~~to active duty shall be deemed to be on the same status as that~~  
7 ~~of a regular member who terminates the regular member's~~  
8 ~~employment as an employee, and the termination shall be deemed~~  
9 ~~to have occurred on the ninetieth day following the expiration~~  
10 ~~date of the service member's enlistment or the period for which~~  
11 ~~the service member was inducted or the period for which the~~  
12 ~~service member was ordered to active duty.] (a) An active~~  
13 ~~member of the system who leaves active service of the State or~~  
14 ~~any county for the purpose of entering the military service of~~  
15 ~~the United States in time of war or declared national or state~~  
16 ~~emergency, or is called involuntarily to active duty after June~~  
17 ~~24, 1950, shall be entitled to the benefits of sections 88-134,~~  
18 ~~88-135, and 88-137:~~

- 19 (1) For so long as the member remains in active full-time  
20 military service, up to an aggregate of five years;  
21 and  
22 (2) For an additional period ending on the earlier of:



1        (A) The ninety-first day after the termination of the  
2                    member's eligibility for benefits pursuant to  
3                    paragraph (1); or

4        (B) The day the member returns to the active service of  
5                    the State or a county.

6        (b) If a service member resigns from employment by the  
7                    State or a county and waives the service member's right to  
8                    reemployment, the service member's status shall be the same as a  
9                    regular member who terminated the regular member's employment as  
10                   of the earlier of:

11        (1) The effective date of the service member's resignation  
12                    from employment; or

13        (2) The expiration of the service member's rights under  
14                    subsection (a)."

15        SECTION 25. Section 88-251, Hawaii Revised Statutes, is  
16 amended to read as follows:

17        "**§88-251 Applicability.** The following provisions of part  
18 II shall apply to this part:

19        (1) Subpart A, except the definitions provided in section  
20                    88-21, unless expressly adopted in section 88-261;

21        (2) Subpart B, except sections 88-45, 88-45.5, 88-46, 88-  
22                    48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;





1 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,  
2 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83, 88-  
3 84 [~~to~~], 88-85, 88-87 [~~to~~], 88-88, 88-89, 88-96, 88-  
4 97, and 88-98;

5 (4) Subpart D, except sections 88-112 and 88-113; and

6 (5) Subpart E."

7 SECTION 26. Section 88-261, Hawaii Revised Statutes, is  
8 amended by repealing the definitions of "accidental death" and  
9 of "ordinary death".

10 [~~"Accidental death": death which is the natural and~~  
11 ~~proximate result of an accident occurring at some definite time~~  
12 ~~and place while the member was in the actual performance of~~  
13 ~~duty, or due to the result of some occupational hazard, and not~~  
14 ~~caused by recklessness on the part of the member.~~

15 [~~"Ordinary death": death that is not accidental and that~~  
16 ~~occurs while in service or on authorized leave without pay."]~~

17 SECTION 27. Section 88-271, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) Any class A or class B member who:

20 (1) Is in service on June 30, 1984, or who returns to  
21 service after June 30, 1984, but before July 1, 2006,



1 and has vested benefit status as provided in section  
2 88-96(b); and

3 (2) Is in a position covered by Title II of the Social  
4 Security Act, may elect to become a class C member  
5 effective January 1, 1985; or upon return to service,  
6 by filing an election form with the board.

7 The election shall be made prior to December 1, 1984, or within  
8 thirty days of return to service and shall be irrevocable. A  
9 class A or class B member who makes such an election shall be  
10 refunded all accumulated contributions and shall not be required  
11 to make further contributions upon becoming a class C member.  
12 The refund shall be made by March 31, 1985, or within ninety  
13 days after return to service. Upon the effective date of the  
14 election, all rights as a class A or class B member shall be  
15 extinguished."

16 SECTION 28. Section 88-273, Hawaii Revised Statutes, is  
17 amended by amending subsections (c) and (d) to read as follows:

18 "(c) Any retirant who retired under the provisions of part  
19 VII of this chapter and returns to service requiring membership  
20 in the system as a class C member shall be reenrolled as an  
21 active member, and the retirant's retirement allowance shall be  
22 suspended. At such time as the member again retires, the



1 retirement allowance shall be the allowance to which the member  
2 was entitled under the [~~mode-of~~] retirement allowance option  
3 selected when the member previously retired and which was  
4 suspended; plus, for the period of service during the member's  
5 reemployment, the allowance to which the member is entitled for  
6 that service based on the [~~mode-of~~] retirement allowance option  
7 initially selected and computed for the member's age, average  
8 final compensation, and other factors in accordance with the  
9 benefit formula of a class C member in existence at the time of  
10 the member's final retirement. If the member's designation of  
11 beneficiary was irrevocable upon the member's initial  
12 retirement, the member may not change the member's designated  
13 beneficiary when the member returns to service or when the  
14 member again retires.

15 (d) Any retirant who retired under part VII and returns to  
16 service requiring membership in the system as a class A or class  
17 B member shall be reenrolled as an active member, and the  
18 retirant's retirement allowance shall be suspended. At such  
19 time as the member again retires, the retirement allowance shall  
20 be the allowance to which the member was entitled under the  
21 [~~mode-of~~] retirement allowance option selected when the member  
22 previously retired and which was suspended; plus, for the period



1 of service during the member's reemployment, the allowance to  
2 which the member is entitled for that service based on the [mode  
3 of] retirement allowance option initially selected and computed  
4 for the member's age, average final compensation, and other  
5 factors in accordance with the benefit formula of a class A or  
6 class B member in existence at the time of the member's final  
7 retirement. If the member's designation of beneficiary was  
8 irrevocable upon the member's initial retirement, the member may  
9 not change the member designated beneficiary when the member  
10 returns to service or when the member again retires."

11 SECTION 29. Section 88-283, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "~~§88-283 [Retirement allowance options.]~~ Election of  
14 retirement allowance option. (a) Upon retirement, any member  
15 may elect to receive the maximum retirement allowance to which  
16 the member is entitled, computed in accordance with section 88-  
17 282, 88-284, or 88-285, and, if the member elects to receive the  
18 maximum retirement allowance, the member's beneficiary shall not  
19 be entitled to any benefit upon the member's death, except as  
20 provided in subsection (g). In lieu of the maximum retirement  
21 allowance [~~described in sections 88-282, 88-284, and 88-285~~], a  
22 member may elect to receive the member's retirement allowance



1 under one of the options described below, which shall be  
2 actuarially equivalent to the maximum retirement allowance:

3 (1) Option A: A reduced allowance payable to the member,  
4 then upon the member's death, one-half of the  
5 allowance, including fifty per cent of all cumulative  
6 post retirement allowances, to the member's  
7 beneficiary designated by the member at the time of  
8 retirement, for the life of the beneficiary; provided  
9 that for members retiring after November 30, 2004, in  
10 the event that the retirant's beneficiary dies at any  
11 time after the retirant retired, but before the death  
12 of the retirant, the retirant, upon the death of the  
13 retirant's beneficiary, shall receive a retirement  
14 allowance, including cumulative post retirement  
15 allowances, calculated as if the retirant had selected  
16 the maximum retirement allowance to which the retirant  
17 is entitled;

18 (2) Option B: A reduced allowance payable to the member,  
19 then upon the member's death, the same allowance,  
20 including cumulative post retirement allowances, paid  
21 to the member's beneficiary designated by the member  
22 at the time of retirement, for the life of the



1 beneficiary; provided that for members retiring after  
2 November 30, 2004, in the event that the retirant's  
3 beneficiary dies at any time after the retirant  
4 retired, but before the death of the retirant, the  
5 retirant, upon the death of the retirant's  
6 beneficiary, shall receive a retirement allowance,  
7 including cumulative post retirement allowances,  
8 calculated as if the retirant had selected the maximum  
9 retirement allowance to which the retirant is  
10 entitled; or

- 11 (3) Option C: A reduced allowance payable to the member,  
12 and if the member dies within ten years of retirement,  
13 the same allowance, including cumulative post  
14 retirement allowances, paid to the member's  
15 beneficiary for the balance of the ten-year period.

16 Only one beneficiary may be designated under options A and B.

17 The beneficiary designated under option A or B shall be a  
18 natural person, and benefits under option A or B may only be  
19 paid to a natural person. To receive benefits, the beneficiary  
20 shall have been designated by the member in the form and manner  
21 prescribed by the board.

- 22 (b) [~~Any~~] Upon a member's retirement:



1        (1) The member's election of a [mode of] retirement  
2            allowance option shall be irrevocable [~~and subject to~~  
3            ~~the spousal or reciprocal beneficiary notification~~  
4            ~~requirement under subsection (c).~~]; and

5        (2) The member's designation of a beneficiary shall be  
6            irrevocable if the retirement option elected by the  
7            member is option A or B.

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

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

12            (A) Specifies the retirement date, the benefit option  
13            selected, and the beneficiary designated by the  
14            member;

15            (B) Provides information indicating the effect of the  
16            election; and

17            (C) Is determined adequate by rules established by  
18            the board pursuant to chapter 91; [~~or~~]

19        (2) The member selects option A or option B and designates  
20            the spouse or reciprocal beneficiary as the  
21            beneficiary; or



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

4           (A) There is no spouse or reciprocal beneficiary;

5           (B) The spouse or reciprocal beneficiary cannot be  
6           located;

7           (C) The member has failed to notify the system that  
8           the member has a spouse or reciprocal beneficiary  
9           or has failed to provide the system with the name  
10          and address of the member's spouse or reciprocal  
11          beneficiary; or

12          (D) Of other reasons, as established by rules of the  
13          board pursuant to chapter 91. Any notice  
14          provided to a spouse or reciprocal beneficiary,  
15          or determination that the notification of a  
16          spouse or reciprocal beneficiary cannot be  
17          provided, shall be effective only with respect to  
18          that spouse or reciprocal beneficiary. The  
19          system shall rely upon the representations made  
20          by a member as to whether the member has a spouse  
21          or reciprocal beneficiary and the name and





1 address of the member's spouse or reciprocal  
2 beneficiary.

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

6 (1) The terms and conditions of the various benefit  
7 options;

8 (2) The rights of the member's spouse or reciprocal  
9 beneficiary under subsection (c) to be notified of the  
10 member's election of a benefit option; and

11 (3) The member's right to make, and the effect of, a  
12 revocation of an election of a benefit option.

13 (e) The system shall not be liable for any false  
14 statements made to the system by the member[-] or by the  
15 member's employer.

16 (f) In the event of the death of a member after the date  
17 of the filing of the member's written application to retire, but  
18 prior to the retirement date designated by the member, and, if  
19 the member was eligible to retire on the date of the member's  
20 death, the member's designated beneficiary~~[, if the member was~~  
21 ~~eligible to retire on the date of the member's death,~~] may elect  
22 to receive either:



1 (1) An allowance that would have been payable if the  
2 member had retired and had elected to receive a  
3 retirement allowance under option B; or

4 (2) The allowance under the option selected by the member  
5 which would have been payable had the member retired.

6 The effective date of the member's retirement shall be [a] the  
7 first day of a month, except for the month of December when the  
8 effective date of retirement may be on the first or last day of  
9 the month, and shall be no earlier than the later of thirty days  
10 from the date the member's retirement application was filed or  
11 the day following the member's date of death. The election may  
12 not be made if, at the time of the member's death, there are  
13 individuals who are eligible to receive death benefits under  
14 section 88-286(c) who have made a claim for the benefits;  
15 provided that[7] if the designated beneficiary is an individual  
16 eligible to receive benefits under section 88-286(c), the  
17 designated beneficiary may receive benefits pursuant to an  
18 election under this section pending disposition of the claim for  
19 benefits under section 88-286(c). No death benefits will be  
20 payable under section 88-286(c) while benefits are paid pursuant  
21 to an election made under this section.



1 (g) In the event of the death of the retirant within one  
2 year after the date of retirement, the retirant's designated  
3 beneficiary may elect to receive either:

4 (1) The death benefit under the retirement option selected  
5 by the retirant; or

6 (2) The death benefit under option B; provided that the  
7 difference between the benefit that the retirant  
8 received and the benefit that would have been payable  
9 to the retirant had the retirant elected to receive a  
10 retirement allowance under option B shall be returned  
11 to the system.

12 (h) The increase in the retirant's benefit under options A  
13 and B upon the death of the retirant's designated beneficiary  
14 shall be effective the first day of the month following the date  
15 of death of the designated beneficiary. The retirant shall  
16 notify the system in writing and provide a certified copy of the  
17 beneficiary's death certificate. The system shall make  
18 retroactive benefit payments to the retirant, not to exceed six  
19 months from the date the written notification and the certified  
20 copy of the death certificate are received by the system. The  
21 retroactive payments shall be without interest."



1 SECTION 30. Section 88-286, Hawaii Revised Statutes, is  
2 amended by amending subsections (a), (b), and (c) to read as  
3 follows:

4 "(a) The surviving spouse or reciprocal beneficiary and  
5 [~~dependent child or~~] children under the age of eighteen of a  
6 member at the time of the member's death shall be eligible for a  
7 death benefit if the member suffers either an ordinary death  
8 while in service or on authorized leave without pay after  
9 accumulating ten years of credited service or an accidental  
10 death.

11 (b) In the case of ordinary death, the death benefit shall  
12 be as follows:

13 (1) For the surviving spouse or reciprocal beneficiary, an  
14 allowance equal to one-half of the member's accrued  
15 maximum retirement allowance unreduced for age,  
16 payable until remarriage, marriage, or entry into a  
17 new reciprocal beneficiary relationship, as if the  
18 member had retired on the first day of a month  
19 following the member's death, except for the month of  
20 December when retirement on the first or last day of  
21 the month shall be allowed; and for each [~~dependent~~]  
22 child under the age of eighteen an allowance equal to



1 ten per cent of the member's accrued maximum  
2 retirement allowance unreduced for age, payable until  
3 the [~~dependent~~] child attains age eighteen; provided  
4 that the aggregate death benefits for all the  
5 [~~dependent~~] children under the age of eighteen shall  
6 not exceed twenty per cent of the member's accrued  
7 retirement allowance unreduced for age; or

8 (2) For the surviving spouse or reciprocal beneficiary, if  
9 the member was eligible for retirement at the time of  
10 death in service, and death occurred after June 30,  
11 1990, an allowance that would have been payable as if  
12 the member had retired on the first day of a month  
13 following the member's death, except for the month of  
14 December when retirement on the first or last day of  
15 the month shall be allowed and had elected to receive  
16 a retirement allowance under option B of section 88-  
17 283; and

18 (3) If there is no surviving spouse or reciprocal  
19 beneficiary, each [~~dependent~~] child under the age of  
20 eighteen shall receive an allowance equal to twenty  
21 per cent of the member's accrued maximum retirement  
22 allowance unreduced for age, payable on the first day



1 of a month following the member's death, except for  
2 the month of December when retirement on the first or  
3 last day of the month shall be allowed, until the  
4 [~~dependent~~] child attains age eighteen; provided that  
5 the aggregate death benefits for all the [~~dependent~~]  
6 children under the age of eighteen shall not exceed  
7 forty per cent of the member's accrued maximum  
8 retirement allowance unreduced for age.

9 For the purpose of determining eligibility for the ordinary  
10 death benefit, a year round school employee shall be considered  
11 in service during the July and August preceding a transfer to a  
12 traditional school schedule if the employee was in service for  
13 the entire prior school year and has a contract for the upcoming  
14 traditional school year. The application for ordinary death  
15 benefits shall be filed no later than three years from the date  
16 of the member's death.

17 (c) In the case of accidental death[7] as determined by  
18 the board of trustees pursuant to section 88-85.5, the death  
19 benefit shall be effective on the first day of [a] the month  
20 following the member's death, except for the month of December  
21 when retirement on the first or last day of the month shall be  
22 allowed, as follows:



1           (1) For the surviving spouse or reciprocal beneficiary, an  
2           allowance equal to thirty per cent of the member's  
3           average final compensation, payable until remarriage,  
4           marriage, or upon entry into a new reciprocal  
5           beneficiary relationship;

6           (2) If there is a surviving spouse or reciprocal  
7           beneficiary, each [~~dependent~~] child under the age of  
8           eighteen shall receive an allowance equal to the  
9           greater of:

10           (A) Ten per cent of the member's accrued maximum  
11           retirement allowance unreduced for age; provided  
12           that the aggregate death benefits for all the  
13           [~~dependent~~] children under the age of eighteen  
14           shall not exceed twenty per cent of the member's  
15           accrued maximum retirement allowance unreduced  
16           for age; or

17           (B) Three per cent of the member's average final  
18           compensation; provided that the aggregate death  
19           benefits for all the [~~dependent~~] children under  
20           the age of eighteen shall not exceed six per cent  
21           of the member's average final compensation.



1           The death benefit under this paragraph shall be  
2           payable to each [~~dependent~~] child until the  
3           [~~dependent~~] child attains age eighteen; and  
4       (3)   If there is no surviving spouse or reciprocal  
5           beneficiary, each [~~dependent~~] child under age eighteen  
6           shall receive an allowance equal to the greater of:  
7           (A)   Twenty per cent of the member's accrued maximum  
8                 retirement allowance unreduced for age; provided  
9                 that the aggregate death benefits for all the  
10                [~~dependent~~] children under the age of eighteen  
11                shall not exceed forty per cent of the member's  
12                accrued maximum retirement allowance unreduced  
13                for age; or  
14           (B)   Six per cent of the member's average final  
15                 compensation; provided that the aggregate death  
16                 benefits for all the [~~dependent~~] children under  
17                 the age of eighteen shall not exceed twelve per  
18                 cent of the member's average final compensation.  
19           The death benefit under this paragraph shall be  
20           payable to each [~~dependent~~] child until the  
21           [~~dependent~~] child attains age eighteen."





1 SECTION 31. Section 88-301, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]**§88-301**[~~]~~ **Applicability.** The following provisions of  
4 part II of this chapter shall apply to this part:

5 (1) Subpart A;

6 (2) Subpart B, except sections 88-45, 88-46, 88-48, 88-52,  
7 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;

8 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,  
9 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83, 88-  
10 84, 88-85, 88-88, 88-89, 88-96, 88-97, and 88-98;

11 (4) Subpart D; and

12 (5) Subpart E."

13 SECTION 32. Section 88-321, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) Any member, except for members described in  
16 subsection (c), who is in service on June 30, 2006, or who  
17 returns to service after June 30, 2006, and has vested benefit  
18 status in accordance with section 88-96(b), may elect to become  
19 a class H member effective July 1, 2006, or upon return to  
20 service, by filing an election form with the system in  
21 accordance with this section. The election shall be made prior  
22 to April 1, 2006, by members in service on February 28, 2006[~~-~~];



1 provided that any member in service on February 28, 2006, who is  
2 absent from the State on that date while in the military service  
3 of the United States, shall have thirty days after the member  
4 returns to the member's regular employment with the State or a  
5 county to make the election. The election shall be made by  
6 members entering or returning to service after February 28,  
7 2006, within thirty days of entering or returning to service.  
8 The election shall be irrevocable."

9 SECTION 33. Section 88-321, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) Notwithstanding any other law to the contrary, after  
12 June 30, 2006:

13 (1) A class C member who returns to service and who does  
14 not return to service as a class A or a class B member  
15 shall become a class H member upon return to service;  
16 and

17 (2) A class A or a class B member, who returns to service  
18 but does not have vested benefit status as provided in  
19 section 88-96(b) and who does not return to service as  
20 a class A or class B member, shall become a class H  
21 member upon return to service[. ~~The system shall~~  
22 ~~return to the member the member's accumulated~~



1           ~~contributions]~~ and the member's credited service as a  
2           class A or B member shall be converted to class C  
3           credited service. The system shall return to the  
4           member the member's accumulated contributions if the  
5           member's accumulated contributions are \$1,000 or less  
6           at the time of distribution. If the member's  
7           accumulated contributions for the class A or B  
8           credited service that was converted to class C  
9           credited service have not been previously returned by  
10          the system to the member, such contributions, together  
11          with interest thereon, shall be returned to the member  
12          upon written application by the member or as soon as  
13          possible after the member attains age sixty-two."

14           SECTION 34. Section 88-322, Hawaii Revised Statutes, is  
15          amended by amending subsections (a) and (b) to read as follows:

16           "(a) Class C members who are in service on June 30, 2006,  
17          and make the election to become class H members pursuant to  
18          section 88-321(a), shall have the option to convert some or all  
19          of their class C credited service, as of June 30, 2006, to class  
20          H credited service by paying the full actuarial cost of the  
21          conversion as of June 30, 2006, in the manner provided in



1 subsection (d). The option to convert class C credited service  
2 to class H credited service shall ~~[not]~~ also apply:

3 (1) To forfeited credit for previous service ~~[not]~~ that a  
4 member is eligible to have restored as of June 30,  
5 2006; ~~[or]~~ and

6 (2) To membership service credit that a member is eligible  
7 to claim under section 88-272(4) to (6) as of June 30,  
8 2006~~[, which the member has failed to claim by June~~  
9 ~~30, 2006.]~~;

10 provided that the member shall claim the forfeited service  
11 credit and the membership service credit by the date established  
12 by the board at a meeting held pursuant to chapter 92.

13 (b) All class A and class B credited service of class A or  
14 class B members who make the election to become class H members  
15 pursuant to section 88-321(a) shall be converted to class H  
16 credited service. The cost of the conversion of class A or  
17 class B credited service shall be the member's accumulated  
18 contributions as of the date of conversion. Verified membership  
19 service credit paid for pursuant to section 88-59 under an  
20 irrevocable payroll authorization entered into prior to July 1,  
21 2006, shall be credited as class H credited service. Class A and  
22 class B members who are in service on June 30, 2006, and make



1 the election to become class H members pursuant to section 88-  
2 321(a) shall have the option to convert some or all of their  
3 class C credited service, as of June 30, 2006, to class H  
4 credited service by paying, in the manner provided in subsection  
5 (d), the full actuarial cost of the conversion as of June 30,  
6 2006. The option to convert class C credited service to class H  
7 credited service shall [~~not~~] also apply:

8 (1) To forfeited credit for previous service [~~not~~] that a  
9 member is eligible to have restored as of June 30,  
10 2006; [~~or~~] and

11 (2) To membership service credit that a member is eligible  
12 to claim under section 88-272(4) to (6) as of June 30,  
13 2006[~~, which the member has failed to claim by June~~  
14 ~~30, 2006.~~];

15 provided that the member shall claim the forfeited service  
16 credit and the membership service credit by the date established  
17 by the board at a meeting held pursuant to chapter 92."

18 SECTION 35. Section 88-324, Hawaii Revised Statutes, is  
19 amended by amending subsections (c), (d), and (e) to read as  
20 follows:

21 "(c) Verified membership service for which a former class  
22 A or class B member in service on June 30, 2006, was eligible as



1 of June 30, 2006, but failed to claim by [~~June 30, 2006,~~] the  
2 date established by the board pursuant to section 88-322(b),  
3 shall be paid for in any one of the following methods, at the  
4 member's option:

5 (1) By deductions from the member's compensation pursuant  
6 to section 414(h)(2) of the Internal Revenue Code of  
7 1986, as amended, under the employer pick up plan  
8 under section 88-326. An irrevocable payroll  
9 authorization filed by the member for a period not to  
10 exceed sixty months shall remain in effect until the  
11 completion of the payroll payments or termination of  
12 employment, whichever is earlier. The amount of  
13 service credit that may be acquired pursuant to this  
14 method shall not exceed the period over which the  
15 payroll payments are made. The member may elect to  
16 have:

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



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

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

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

17          Class H membership service credit in addition to any other  
18          service credited to the member shall be allowed for the period  
19          for which the deductions from compensation or lump sum payment  
20          have been made in accordance with this subsection.

21          (d) Verified prior service and verified membership service  
22          for which a former class C member in service on June 30, 2006,



1 was eligible as of June 30, 2006, but failed to claim by [~~June~~  
2 ~~30, 2006,~~] the date established by the board pursuant to section  
3 88-322(a), shall be credited at no cost as class C credited  
4 service.

5 (e) Except as provided in subsection (f)[+] or in section  
6 88-322:

7 (1) Class A, class B, or class C credited service shall  
8 not be acquired as class H credited service; and

9 (2) Class A, class B, or class C credited service shall be  
10 restored as class C credited service at the rate of  
11 one month of service credit for each month of service  
12 rendered following the later of conversion to class H  
13 membership or the return to membership as a class H  
14 member.

15 Forfeited class H membership service shall not be restored."

16 SECTION 36. Section 88-333, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "~~[§]88-333[§]—Retirement allowance options.~~ Election of  
19 retirement allowance option. (a) Upon retirement:

20 (1) Any class H member may elect to receive the maximum  
21 retirement allowance to which the member is entitled,  
22 computed in accordance with the provisions described





1 under section 88-332, 88-335, or 88-337, and if the  
2 member elects to receive the maximum retirement  
3 allowance, in the event of the member's death, there  
4 shall be paid to the member's beneficiary, or  
5 otherwise to the member's estate, the difference  
6 between the balance of the member's accumulated  
7 contributions at the time of the member's retirement  
8 and the retirement allowance paid or payable to the  
9 member prior to death; or

10 (2) In lieu of the maximum allowance to which the member  
11 is entitled, computed in accordance with the  
12 provisions described under section 88-332, 88-335, or  
13 88-337, the member may elect to receive the member's  
14 retirement allowance under any one of the [~~optional~~  
15 ~~plans~~] options described in section 88-83, which shall  
16 be actuarially equivalent to the maximum allowance.

17 To receive benefits, the beneficiary shall have been  
18 designated by the member in the form and manner prescribed by  
19 the board.

20 (b) If a class H member dies after the date of the filing  
21 of the member's written application to retire but prior to the  
22 retirement date designated by the member, and, if the member was



1 eligible to retire on the date of the member's death, the  
2 member's designated beneficiary, or otherwise the personal  
3 representative of the member's estate, [~~if the member was~~  
4 ~~eligible to retire on the date of the member's death,~~] may elect  
5 to receive either the death benefit under section 88-338 or the  
6 allowance under the option selected by the member that would  
7 have been payable had the member retired. The effective date of  
8 the member's retirement shall be [a] the first day of a month,  
9 except for the month of December when the effective date of  
10 retirement may be on the first or last day of the month, and  
11 shall be no earlier than the later of thirty days from the date  
12 the member's retirement application was filed or the day  
13 following the member's date of death.

14 (c) If a retirant dies within one year after the date of  
15 retirement, the retirant's designated beneficiary may elect to  
16 receive either the death benefit under the retirement allowance  
17 option selected by the member, or the benefits that would have  
18 been paid under section 88-338 had the retirant died immediately  
19 prior to retirement, less any payments received by the retirant.

20 (d) [~~Any~~] Upon a member's retirement:

21 (1) The member's election of a [~~mode of~~] retirement  
22 allowance option shall be irrevocable[~~-~~]; and



- 1       (2) The member's designation of a beneficiary shall be  
2       irrevocable if the retirement option elected by the  
3       member is:
- 4       (A) Option 2 or 3 described in section 88-83;  
5       (B) An option that includes option 2 or 3 in  
6       combination with some other form of benefit  
7       payment; or  
8       (C) Any other option for which the actuarial  
9       equivalent of the option to the maximum  
10       retirement allowance is determined at the time of  
11       the member's retirement in whole or in part on  
12       the age of the member's beneficiary.

13       (e) No election under this section shall take effect  
14 unless:

- 15       (1) The spouse or reciprocal beneficiary of the member is  
16       furnished written notification that:
- 17       (A) Specifies the retirement date, the benefit option  
18       selected, and the beneficiary designated by the  
19       member;
- 20       (B) Provides information indicating the effect of the  
21       election; and



- 1 (C) Is determined adequate by rules adopted by the  
2 board in accordance with chapter 91;
- 3 (2) The member selects option 2 or option 3 under section  
4 88-83 and designates the spouse or reciprocal  
5 beneficiary as the beneficiary; or
- 6 (3) It is established to the satisfaction of the board  
7 that the notice required under paragraph (1) cannot be  
8 provided because:
- 9 (A) There is no spouse or reciprocal beneficiary;
- 10 (B) The spouse or reciprocal beneficiary cannot be  
11 located;
- 12 (C) The member has failed to notify the system that  
13 the member has a spouse or reciprocal  
14 beneficiary, or has failed to provide the system  
15 with the name and address of the member's spouse  
16 or reciprocal beneficiary; or
- 17 (D) Of other reasons, as established by board rules  
18 adopted in accordance with chapter 91.

19 Any notice provided to a spouse or reciprocal beneficiary,  
20 or determination that the notification of a spouse or reciprocal  
21 beneficiary cannot be provided shall be effective only with  
22 respect to that spouse or reciprocal beneficiary. The system



1 shall rely upon the representations made by a member as to  
2 whether the member has a spouse or reciprocal beneficiary and  
3 the name and address of the member's spouse or reciprocal  
4 beneficiary. The system shall not be liable for any false  
5 statements made by the member.

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

9 (1) The terms and conditions of the various benefit  
10 options;

11 (2) The rights of the member's spouse or reciprocal  
12 beneficiary under subsection (e) to be notified of the  
13 member's election of a benefit option; and

14 (3) The member's right to make, and the effect of, a  
15 revocation of an election of a benefit option.

16 (g) The system shall not be liable for any false  
17 statements made to the system by the member or by the member's  
18 employer."

19 SECTION 37. Section 88-338, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "[~~f~~]**§88-338**[~~]~~ **Ordinary death benefit.** (a) Upon receipt  
22 by the [~~board~~] system of proper proof of a class H member's



1 death occurring in service or while on authorized leave without  
2 pay and if no pension is payable under section 88-339, there  
3 shall be paid to the member's designated beneficiary an ordinary  
4 death benefit as follows:

5 (1) If the member had less than five years of credited  
6 service at the time of death, the member's accumulated  
7 contributions shall be paid to the member's designated  
8 beneficiary;

9 (2) If the member had five or more years of credited  
10 service at the time of death, an amount equal to the  
11 member's hypothetical account balance shall be paid to  
12 the member's designated beneficiary;

13 (3) If the member had ten or more years of credited  
14 service at the time of death, the member's designated  
15 beneficiary may elect to receive in lieu of any other  
16 payment provided in this section, the allowance that  
17 would have been payable as if the member had retired  
18 on the first day of [a] the month following the  
19 member's death, except for the month of December when  
20 retirement on the first or last day of the month shall  
21 be allowed. Benefits payable under this paragraph



1 shall be calculated under option 3 of section 88-83  
2 and computed on the basis of section 88-335; or  
3 (4) If the member was eligible for service retirement at  
4 the time of death, the member's designated beneficiary  
5 may elect to receive in lieu of any other payment  
6 provided in this section, the allowance that would  
7 have been payable as if the member had retired on the  
8 first day of [a] the month following the member's  
9 death, except for the month of December when  
10 retirement on the first or last day of the month shall  
11 be allowed. Benefits payable under this paragraph  
12 shall be calculated under option 2 of section 88-83.

13 (b) If the member's designation of beneficiary is void as  
14 specified in section 88-93, or if the member did not designate a  
15 beneficiary, the death benefit in the case of ordinary death  
16 shall be payable:

- 17 (1) To the surviving spouse or reciprocal beneficiary, a  
18 benefit as specified under subsection (a);  
19 (2) To the deceased member's [~~dependent child, or~~]  
20 children under age eighteen, if there is no surviving  
21 spouse or reciprocal beneficiary, an equally divided



1 benefit as specified under paragraph (1) or (2) of  
2 subsection (a); or

3 (3) To the deceased member's estate, if there is no  
4 surviving spouse or reciprocal beneficiary or  
5 ~~[dependent child or]~~ children~~[,]~~ under the age of  
6 eighteen, a benefit as specified under paragraph (1)  
7 or (2) of subsection (a).

8 (c) For the purposes of this section, a year round school  
9 employee shall be considered in service during the July and  
10 August preceding a transfer to a traditional school schedule if  
11 the employee was in service for the entire prior school year and  
12 has a contract for the upcoming traditional school year.

13 (d) The application for ordinary death benefits shall be  
14 filed no later than three years from the date of the member's  
15 death."

16 SECTION 38. Section 88-339, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) [~~Upon the receipt by the board of trustees, of proper~~  
19 ~~proof of a class H member's death,~~] In the case of an accidental  
20 death as determined by the board of trustees pursuant to section  
21 88-85.5, there shall be paid to the member's designated  
22 beneficiary or to the member's estate the amount of the member's





1 accumulated contributions and [~~if, upon the receipt of evidence~~  
2 ~~or proof that the death was the natural and proximate result of~~  
3 ~~an accident occurring at some definite time and place while the~~  
4 ~~member was in the actual performance of duty, or that the death~~  
5 ~~was due to the result of some occupational hazard, the board~~  
6 ~~shall decide that the death was the result of an accident in the~~  
7 ~~performance of duty and not caused by wilful negligence on the~~  
8 ~~part of the member,]~~ there shall be paid in lieu of the ordinary  
9 death benefit payable under section 88-338[~~, effective on the~~  
10 ~~first day of a month following the member's death, except for~~  
11 ~~the month of December when benefits shall be effective on the~~  
12 ~~first or last day of the month,]~~ a pension of one-half of the  
13 average final compensation of the member:

- 14 (1) To the surviving spouse or reciprocal beneficiary of  
15 the member to continue until the surviving spouse or  
16 reciprocal beneficiary remarries, marries, or enters  
17 into a new reciprocal beneficiary relationship;
- 18 (2) If there be no surviving spouse or reciprocal  
19 beneficiary, or if the surviving spouse or reciprocal  
20 beneficiary dies or remarries, marries, or enters into  
21 a new reciprocal beneficiary relationship before any  
22 child of the deceased member shall have attained the



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

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

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

21 SECTION 39. Section 88-341, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) Any class H member who ceases to be an employee and  
2 who has fewer than five years of credited service, excluding  
3 unused sick leave, shall, upon application to the board, be paid  
4 all of the former employee's accumulated contributions and the  
5 former employee's membership shall thereupon terminate and all  
6 credited service shall be forfeited; provided that any such  
7 individual shall not be paid the individual's accumulated  
8 contributions if either:

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

15           Regular interest shall be credited to the former employee's  
16 account until the former employee's accumulated contributions  
17 are withdrawn; provided that the former employee's membership  
18 shall not continue after the fourth full year following the  
19 calendar year in which the individual's employment terminates.  
20 If the former employee does not become an employee again and has  
21 not withdrawn the former employee's accumulated contributions,  
22 the system shall return the former employee's accumulated



1 contributions to the former employee as soon as possible after  
2 the former employee attains age sixty-two."

3 SECTION 40. Section 88-344, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~f~~]**§88-344**[~~+~~] **Return to service of a retirant.** (a) Any  
6 retirant who retired under the provisions of part VIII of this  
7 chapter and returns to service requiring membership in the  
8 system as a class H member shall be reenrolled as an active  
9 member, and the retirant's retirement allowance shall be  
10 suspended. At such time as the member again retires, the  
11 retirement allowance shall be the sum of:

12 (1) The allowance to which the member was entitled under  
13 the [~~mode of~~] retirement allowance option selected  
14 when the member previously retired and which was  
15 suspended; and

16 (2) For the period of service during the member's  
17 reemployment, the allowance to which the member is  
18 entitled for that service based on the [~~mode of~~]  
19 retirement allowance option initially selected and  
20 computed for the member's age, average final  
21 compensation, and other factors in accordance with the



1           benefit formula of a class H member in existence at  
2           the time of the member's final retirement.

3           (b) Any retirant who retired under part VIII and returns  
4 to service requiring membership in the system as a class A or  
5 class B member shall be reenrolled as an active member, and the  
6 retirant's retirement allowance shall be suspended. At such  
7 time as the member again retires, the retirement allowance shall  
8 be the sum of:

9           (1) The allowance to which the member was entitled under  
10           the [~~mode of~~] retirement allowance option selected  
11           when the member previously retired and which was  
12           suspended; and

13           (2) For the period of service during the member's  
14           reemployment, the allowance to which the member is  
15           entitled for that service based on the [~~mode of~~]  
16           retirement allowance option initially selected and  
17           computed for the member's age, average final  
18           compensation, and other factors in accordance with the  
19           benefit formula of a class A or class B member in  
20           existence at the time of the member's final  
21           retirement.



1 (c) Any retirant who received the special retirement  
2 incentive benefit under Act 253, Session Laws of Hawaii 2000,  
3 and is reemployed by the State or a county in any capacity  
4 shall:

- 5 (1) Have the retirant's retirement allowance suspended;  
6 (2) Forfeit the special retirement incentive benefit and  
7 any related benefit provided by chapter 88; and  
8 (3) Be subject to the age and service requirements under  
9 section 88-331 when the member again retires.

10 (d) If a retirant's designation of beneficiary was  
11 irrevocable upon the retirant's initial retirement, the retirant  
12 may not change the retirant's designated beneficiary when the  
13 retirant returns to service or when the former retirant again  
14 retires.

15 (e) The board shall adopt such rules as may be required to  
16 administer the purposes of this section."

17 SECTION 41. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 42. This Act shall take effect on July 1, 2006;  
20 provided that section 26 shall take effect retroactive to July  
21 1, 2003, sections 32 and 40 shall take effect retroactive to  
22 July 1, 2004, section 33 shall take effect retroactive to



- 1 January 1, 2006, and sections 35 and 36 shall take effect on
- 2 June 30, 2006.

