
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 88-21, Hawaii Revised Statutes, is
2 amended by adding four new definitions to be appropriately
3 inserted and to read as follows:

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

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

10 "Child or children":

11 (1) A natural child of a member;

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

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

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

16 (B) For whom the member has become the child's legal
17 guardian or has been awarded legal and physical



1 custody of the child pursuant to a valid court
2 order.

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

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

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

16 (1) No recipient or beneficiary shall be permitted to draw
17 any pension, or any portion thereof, in excess of \$50
18 per month, while the recipient or beneficiary is
19 holding any salaried position or office in, under or
20 by authority of the United States, the State, or any
21 political subdivision thereof. This paragraph shall
22 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 3. 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 4. Section 88-21, Hawaii Revised Statutes, is
19 amended by amending the definitions of "beneficiary" and
20 "retirement allowance" to read as follows:

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 5. 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 for and pass upon all medical
15 examinations required under this part and [~~part~~] parts VII and
16 VIII of this chapter, shall investigate all essential statements
17 and certificates by or on behalf of a member in connection with
18 application for disability retirement, and shall report in
19 writing to the board its conclusions and recommendations upon
20 all the matters referred to it."

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



1 "(a) Notwithstanding any other law to the contrary, any
2 judge who retires under section 88-61(c) and continues in
3 service as a judge shall be allowed membership in the system and
4 entitlement to membership service credit for any eligible class
5 A service; provided that [~~such~~] the membership service shall be
6 credited in accordance with section 88-59; and provided further
7 that when the judge retires, it shall be as if it were for the
8 first time, and sections [~~88-73(1),~~] 88-73(a), 88-74(3), and
9 88-76 shall be used to determine the retirement allowance."

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

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

13 "(a) Except as otherwise provided by section 88-96, any
14 member absent from service for four calendar years following the
15 calendar year in which the member's employment terminated shall
16 cease to be a member[~~-~~], and the former member's credited
17 service shall be forfeited."

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

19 "(c) The membership of an elective officer or judge in the
20 system may be terminated upon election of the member to retire
21 whenever the allowance for [~~such~~] the member reaches
22 seventy-five per cent of the member's average final



1 compensation. The member's right to receive the retirement
2 allowance prescribed in section 88-74 after the member's future
3 separation from service as provided in section 88-73 shall vest
4 on the date of the election. Upon the date of the election, the
5 member shall be entitled to receive the portion of the
6 accumulated contributions, if any, which would be required to be
7 returned to the member under section [~~88-74(3)(B)~~] 88-74(3) as
8 if the member's retirement allowance had commenced on that date,
9 and after the date of the election the member shall not be
10 allowed or required to make any future contributions."

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

13 "(a) If a former member who has less than five years of
14 credited service and who has been out of service for a period of
15 four full calendar years or more after the year in which [~~he~~]
16 the former member left service, or if a former member who
17 withdrew [~~his~~] the former member's accumulated contributions
18 returns to service, [~~he~~] the former member shall become a member
19 in the same manner and under the same conditions as anyone first
20 entering service; however, [~~he~~] the former member may obtain
21 membership service credit in the manner provided by applicable
22 law for [~~his former~~] credited service [~~as provided in section~~



1 ~~88-59-]~~ that was forfeited by the member upon termination of the
2 member's previous membership. If [~~such~~] the member did not
3 withdraw [~~his~~] the former member's accumulated contributions
4 prior to [~~his~~] the former member's return to service, [~~such~~] the
5 accumulated contributions shall be returned to [~~him~~] the member
6 as part of the process of enrolling [~~him~~] the member in the
7 system[-] if the member's accumulated contributions are \$1,000
8 or less at the time of distribution. If the accumulated
9 contributions for the service the member had when the member
10 previously terminated employment are greater than \$1,000 and the
11 member does not make written application, prior to or
12 contemporaneously with the member's return to service, for
13 return of the accumulated contributions, the member may not
14 withdraw the member's accumulated contributions, except as
15 provided by section 88-96 or 88-341, until the member retires or
16 attains age sixty-two. The member shall not be entitled to
17 service credit by reason of the system's retention of the
18 member's accumulated contributions for the service the member
19 had when the member previously terminated employment.

20 ~~[In order to]~~ To be eligible for any benefit, [~~he must]~~ the
21 member shall fulfill the membership service requirements for
22 [~~such~~] the benefit through membership service after again



1 becoming a member, in addition to meeting any other eligibility
2 requirement established for ~~[such]~~ the benefit; provided that
3 the membership service requirement shall be exclusive of any
4 former service acquired in accordance with section 88-59 or any
5 other section in this part."

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

8 "(a) The system shall finalize a ~~[retiree's]~~ retirant's
9 pension benefit within six calendar months following the month
10 of the ~~[retiree's]~~ retirant's retirement. For pension benefits
11 finalized after the sixth calendar month following the month of
12 the ~~[retiree's]~~ retirant's retirement, an interest payment
13 amounting to four and one-half per cent per annum shall be paid
14 to the ~~[retiree.]~~ retirant. Interest shall be calculated on the
15 difference between the amount the ~~[retiree]~~ retirant is entitled
16 to receive from the ~~[retiree's]~~ retirant's retirement date up to
17 the day the payment is made and the amount the ~~[retiree]~~
18 retirant was paid, including any refund of member contributions.

19 Beginning January 1, 2004, or the first day of the seventh
20 calendar month following the month of retirement, whichever is
21 later, interest payments calculated as simple interest shall be
22 prorated up to the date payment is made; provided that any



1 pension adjustment made after the [~~retiree's~~] retirant's pension
2 has once been finalized shall not be subject to any interest
3 payment.

4 The system shall finalize ordinary and service-connected
5 disability retirements within six calendar months following the
6 month that the member's retirement is approved by the board [~~of~~
7 ~~trustees~~] or the actual retirement date specified by the member,
8 whichever is later."

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

11 "**§88-76 Allowance on ordinary disability retirement.** Upon
12 retirement for ordinary disability, a member shall receive a
13 maximum retirement allowance of one and three-fourths per cent
14 of the member's average final compensation for each [~~full~~] year
15 of credited service; except that for each year of credited
16 service as a judge, an elective officer, or a legislative
17 officer, the member shall receive a maximum retirement allowance
18 computed as provided in section 88-74(3) or (4), as applicable.
19 The minimum retirement allowance payable under this section
20 shall be thirty per cent of the member's average final
21 compensation."



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

3 "(b) Notwithstanding subsection (a), any member who
4 accrued a benefit prior to July 1, 2004, based on annual
5 compensation in excess of the limit set forth in section
6 401(a)(17) of the Internal Revenue Code of 1986, as amended,
7 shall receive a nontax-qualified benefit equal to the difference
8 between:

9 (1) The pension benefit that would be payable at the
10 earliest age the member could retire with an unreduced
11 benefit, based on the member's years of credited
12 service, the member's class of service, and the
13 member's average final compensation as of
14 June 30, 2004, without regard to the limit under
15 section 401(a)(17); and

16 (2) The tax-qualified pension benefit that would be
17 payable at the earliest age the member could retire
18 with an unreduced benefit, based on the member's years
19 of credited service and the member's class of service
20 as of June 30, 2004, and the member's average final
21 compensation as limited by section 401(a)(17) as of
22 the earliest age the member could retire with an



1 unreduced benefit, or, upon the member's termination
2 of service, if earlier."

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

5 "**§88-83 Election of [~~mode of~~] retirement allowance[~~-~~]**
6 **option.** (a) [~~Maximum allowance-~~] Upon retirement, any member
7 may elect to receive the maximum retirement allowance to which
8 the member is entitled computed in accordance with section 88-
9 74, 88-76, or 88-80, and in the event of the member's death,
10 there shall be paid to the member's beneficiary, otherwise to
11 the member's estate, the difference between the balance of the
12 member's accumulated contributions at the time of the member's
13 retirement and the retirement allowance paid or payable to the
14 member prior to death.

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

19 Option 1: The member may elect to receive a lesser
20 retirement allowance during the member's lifetime. At the
21 member's retirement, there shall be established an amount of
22 initial insurance that shall be computed on the basis of



1 actuarial factors adopted by the board [~~of trustees~~]. Upon the
2 death of the retirant, any balance remaining in the initial
3 insurance reserve, after deducting the retirement allowance paid
4 to the retirant prior to death, shall be paid to the retirant's
5 beneficiary, otherwise to the retirant's estate. In lieu of the
6 lump sum balance, the beneficiary may elect to receive an
7 allowance for life based on the value of the balance; provided
8 that the allowance is not less than \$100 per month.

9 Option 2: The member may elect to receive a lesser
10 retirement allowance during the member's lifetime and have those
11 allowances, including cumulative post retirement allowances, if
12 applicable, continued after the member's death to the member's
13 beneficiary [~~during the lifetime of the person. In the event of~~
14 ~~death of~~] designated at the time of the member's retirement, for
15 the life of the beneficiary. If the beneficiary dies prior to
16 [~~that of~~] the retirant, all further payments shall cease upon
17 the death of the retirant; provided that for members retiring
18 after November 30, 2004, [~~in the event that~~] if the retirant's
19 beneficiary dies at any time after the retirant retired, but
20 before the death of the retirant, the retirant, upon the death
21 of the retirant's beneficiary, shall receive a retirement
22 allowance, including cumulative post retirement allowances,



1 calculated as if the retirant had selected the maximum
2 retirement allowance to which the member is entitled. Only one
3 beneficiary shall be designated under this option. The
4 beneficiary designated under this option shall be a natural
5 person, and benefits under this option shall only be paid to a
6 natural person.

7 Option 3: The member may elect to receive a lesser
8 retirement allowance during the member's lifetime and have one-
9 half of [~~such~~] the allowance, including fifty per cent of all
10 cumulative post retirement allowances, if applicable, continued
11 after the member's death to the member's beneficiary [~~during the~~
12 ~~lifetime of that person. In the event of death of~~] designated
13 at the time of the member's retirement, for the life of the
14 beneficiary. If the beneficiary dies prior to [~~that of~~] the
15 retirant, all further payments shall cease upon the death of the
16 retirant; provided that for members retiring after November 30,
17 2004, [~~in the event that~~] if the retirant's beneficiary dies at
18 any time after the retirant retired, but before the death of the
19 retirant, the retirant, upon the death of the retirant's
20 beneficiary, shall receive a retirement allowance, including
21 cumulative post retirement allowances, calculated as if the
22 retirant had selected the maximum retirement allowance to which



1 the member is entitled. Only one beneficiary shall be
2 designated under this option. The beneficiary designated under
3 this option shall be a natural person, and benefits under this
4 option shall only be paid to a natural person.

5 Option 4: The member may elect to receive a lesser
6 retirement allowance during the member's lifetime and provide
7 some other benefit to the member's beneficiary in accordance
8 with the member's own specification; provided that this election
9 shall be certified by the actuary to be the actuarial equivalent
10 of the member's retirement allowance and shall be approved by
11 the board.

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



1 To receive benefits, the beneficiary must have been
2 designated by the member in the form and manner prescribed by
3 the board.

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

7 (b) In the event of the death of a member after the date
8 of the filing of the member's written application to retire, but
9 prior to the retirement date designated by the member, and, if
10 the member was eligible to retire on the date of the member's
11 death, the member's designated beneficiary~~[, if the member was~~
12 ~~eligible to retire on the date of the [member's] death,~~] may
13 elect to receive either death benefits under section 88-84 or
14 the allowance under the option selected by the member that would
15 have been payable had the member retired. The effective date of
16 the member's retirement shall be [a] the first day of a month,
17 except for the month of December when the effective date of
18 retirement may be on the first or last day of the month, and
19 shall be no earlier than the later of thirty days from the date
20 the member's retirement application was filed or the day
21 following the member's date of death. The election may not be
22 made if, at the time of the member's death, there are



1 individuals who are eligible to receive death benefits under
2 section 88-85 who have made a claim for the benefits; provided
3 that, if the designated beneficiary is an individual eligible to
4 receive benefits under section 88-85, the designated beneficiary
5 may receive benefits pursuant to an election made under this
6 section pending disposition of the claim for benefits under
7 section 88-85.

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; [~~ex~~]

19 (2) The member selects option 2 or option 3 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 will rely upon the representations made by
20 a member as to whether the member has a spouse or
21 reciprocal beneficiary and the name and address
22 of the member's spouse or reciprocal beneficiary.



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

4 (1) The terms and conditions of the various benefit
5 options;

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

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

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

14 (f) In the event of the death of the retirant within one
15 year after the date of retirement, the retirant's designated
16 beneficiary may elect to receive either the death benefit under
17 the retirement allowance option selected by the retirant, or
18 [~~such~~] the benefits as would have been paid under section 88-84
19 had the retirant died immediately prior to retirement, less any
20 payments which the retirant received.

21 (g) The increase in the retirant's benefit under options
22 2, 3, and, if applicable, 4 upon the death of the retirant's



1 designated beneficiary shall be effective the first day of the
2 month following the date of death of the designated beneficiary.
3 The retirant shall notify the system in writing and provide a
4 certified copy of the beneficiary's death certificate. The
5 system shall make retroactive benefit payments to the retirant,
6 not to exceed six months from the date the written notification
7 and the certified copy of the death certificate are received by
8 the system. The retroactive payments shall be without interest.

9 (h) Upon a member's retirement:

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

12 (2) The member's designation of a beneficiary shall be
13 irrevocable if the retirement option elected by the
14 member is:

15 (A) Option 2 or 3;

16 (B) An option that includes option 2 or 3 in
17 combination with some other form of benefit
18 payment; or

19 (C) Any other option for which the actuarial
20 equivalent of the option to the maximum
21 retirement allowance is determined at the time of



1 the member's retirement in whole or in part on
2 the age of the member's designated beneficiary."

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

5 "**§88-84 Ordinary death benefit.** (a) Upon receipt by the
6 system of proper proof of a member's death occurring in service
7 or while on authorized leave without pay, there shall be paid to
8 the member's designated beneficiary an ordinary death benefit
9 consisting of:

10 (1) The member's accumulated contributions and, if no
11 pension is payable under section 88-85, an amount
12 equal to fifty per cent of the compensation earned by
13 the member during the year immediately preceding the
14 member's death if the member had at least one year but
15 not more than ten full years of credited service,
16 which amount shall increase by five per cent for each
17 full year of service in excess of ten years, to a
18 maximum of one hundred per cent of the compensation;
19 provided that if the member had at least one year of
20 credited service, the amount, together with the
21 member's accumulated contributions shall not be less
22 than one hundred per cent of the compensation;



- 1 (2) If the member had ten or more years of credited
2 service at the time of death in service, and the death
3 occurred after June 30, 1988, the member's designated
4 beneficiary may elect to receive in lieu of any other
5 payment provided in this section, the allowance that
6 would have been payable as if the member had retired
7 on the first day of a month following the member's
8 death, except for the month of December when
9 retirement on the first or last day of the month shall
10 be allowed. Benefits payable under this paragraph
11 shall be calculated under option 3 of section 88-83
12 and computed on the basis of section 88-76; or
- 13 (3) If the member was eligible for service retirement at
14 the time of death in service, 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 month following the member's
19 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
22 shall be calculated under option 2 of section 88-83.



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

4 (1) To the surviving spouse or reciprocal beneficiary, a
5 benefit as specified under subsection (a)(1), (2), or
6 (3);

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

11 (3) To the deceased member's estate, if there is no
12 surviving spouse or reciprocal beneficiary [~~or~~
13 ~~dependent child or~~] and no children[7] under age
14 eighteen, a benefit as specified under subsection
15 (a)(1).

16 (c) For the purposes of this section, a year round school
17 employee shall be considered in service during the July and
18 August preceding a transfer to a traditional school schedule if
19 the employee was in service for the entire prior school year and
20 has a contract for the upcoming traditional school year.



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

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

6 "(a) [~~Upon the receipt of proper proofs of a member's~~
7 ~~death by the board of trustees,~~] In the case of an accidental
8 death as determined by the board pursuant to section 88-85.5,
9 there shall be paid to the member's designated beneficiary or to
10 the member's estate the amount of the member's accumulated
11 contributions and [~~if, upon the receipt of evidence or proofs~~
12 ~~that the death was the natural and proximate result of an~~
13 ~~accident occurring at some definite time and place while the~~
14 ~~member was in the actual performance of duty, or that the death~~
15 ~~was due to the result of some occupational hazard, the board~~
16 ~~shall decide that the death was the result of an accident in the~~
17 ~~performance of duty and not caused by wilful negligence on the~~
18 ~~part of the member,~~] there shall be paid in lieu of the ordinary
19 death benefit payable under section 88-84, [~~effective on the~~



1 ~~first day of a month following the member's death, except for~~
2 ~~the month of December when benefits shall be effective on the~~
3 ~~first or last day of the month,]~~ a pension of one-half of the
4 average final compensation of the member:

5 (1) To the surviving spouse or reciprocal beneficiary of
6 the member to continue until the surviving spouse or
7 reciprocal beneficiary remarries, marries, or enters
8 into a new reciprocal beneficiary relationship;

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

21 (3) If there is no surviving spouse or reciprocal
22 beneficiary or child under the age of eighteen years



1 surviving the deceased member, then to the deceased
2 member's dependent father or dependent mother, as the
3 deceased member shall have nominated by written
4 designation duly acknowledged and filed with the
5 board, or if there is no [~~such~~] nomination, then to
6 the deceased member's dependent father or to the
7 deceased member's dependent mother as the board, in
8 its discretion, shall direct to continue for life.

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

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

15 "~~§88-85.5 [Accidental death claims.]~~ Applications for
16 accidental death benefits; approval by the board. (a) An
17 application for service-connected accidental death benefits may
18 be filed with the system by or on behalf of the claimant [~~as~~
19 ~~specified in sections~~] pursuant to section 88-85, 88-286, [and]
20 or 88-339[-], on a form provided by the system. The application
21 shall be filed no later than [~~two~~] three years from the date of



1 ~~[receipt of the written notification from the system.]~~ the
2 member's death.

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

6 (1) A copy of the employer's report of the accident
7 submitted by the employer to the department of labor
8 and industrial relations, workers' compensation
9 division, and other reports relating to the accident;

10 (2) A certified statement from the head of the department
11 in which the deceased member was employed, stating the
12 date, time, and place of the accident, and the nature
13 of the service being performed when the accident
14 occurred. The statement shall also include an opinion
15 as to whether or not the accident was the result of
16 wilful negligence on the deceased member's part;

17 (3) A copy of the latest position description of the
18 deceased member's duties and responsibilities;

19 (4) A certified copy of the death certificate; and

20 (5) A copy of an autopsy report, if performed.

21 ~~[(c) If the medical board certifies that the death was the~~
22 ~~natural and proximate result of an accident occurring at some~~



1 ~~definite time and place while the member was in the actual~~
2 ~~performance of duty, or that the death was due to the result of~~
3 ~~some occupational hazard, the board shall decide that the death~~
4 ~~was the result of an accident in the performance of duty and not~~
5 ~~caused by wilful negligence on the part of the member.]~~

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

10 (d) The board may accept as conclusive as to whether or
11 not the member's death was caused by wilful negligence on the
12 part of the member:

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

15 (2) A finding by the medical board.

16 [~~d~~] (e) After the medical board submits its certification
17 to the system, the board shall approve or disapprove the
18 application. Upon approval[~~7~~] of an application, benefits shall
19 be paid [effective the date the claim was filed with the system,
20 in accordance with sections] as provided in section 88-85,
21 88-286, [~~and~~] or 88-339."



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

3 "§88-93 Named beneficiaries by [~~active~~] members[+] and by
4 former employees with vested benefit status; effect of marriage,
5 entry into reciprocal beneficiary relationship, divorce,
6 termination of reciprocal beneficiary relationship, or death.

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

- 10 (1) The beneficiary predeceases the member[+] or former
11 employee;
- 12 (2) The member or former employee is divorced from the
13 beneficiary;
- 14 (3) The member or former employee is unmarried, and
15 subsequently marries; or
- 16 (4) The member or former employee enters into or
17 terminates a reciprocal beneficiary relationship.

18 Any of the above events shall operate as a complete revocation
19 of [~~such~~] the designation and, except as provided in sections
20 88-84(b) and 88-333(b), all benefits payable by reason of the
21 death of the member or former employee shall be payable to the
22 member's [~~legal representatives~~] or former employee's estate



1 unless, after the death, divorce or marriage, or entry into or
2 termination of reciprocal beneficiary relationship, the member
3 or former employee makes other provision in a written
4 designation duly executed and filed with the board [of
5 trustees].

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

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

14 "**§88-95 Withholding of dues and insurance premiums.** A
15 retired member, if the retired member requests in writing, may
16 have withheld from the retired member's pension, annuity, or
17 retirement allowance, payments to the [~~Hawaii public employees~~
18 ~~health~~] employer-union health benefits trust fund and employee
19 organizations for dues and insurance premiums."

20 SECTION 18. Section 88-96, Hawaii Revised Statutes, is
21 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 [~~shall~~], excluding
3 unused sick leave, upon application to the board [~~of trustees~~],
4 shall be paid all of the member's accumulated contributions and
5 the member's membership shall thereupon terminate[+] and all
6 credited service shall be forfeited; provided that [~~any such~~] a
7 member shall not be 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
17 accumulated contributions[+] and thereupon the former employee's
18 membership shall terminate and all credited service shall be
19 forfeited; provided that [~~any such~~] a member shall not be paid
20 the member's 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 as 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
5 July 1, 1998, and again retires, the retirant's
6 retirement 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 and

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

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

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

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

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



1 (c) If a retirant's designation of beneficiary was
2 irrevocable upon the retirant's initial retirement, the retirant
3 may not change the retirant's designated beneficiary when the
4 retirant returns to service or when the former retirant again
5 retires.

6 (d) The board [~~of trustees~~] shall adopt [~~such~~] any rules
7 as may be required to administer the purposes of this section."

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

10 "**§88-119 Investments.** Investments may be made in:

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

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

19 (B) Obligations secured by mortgages insured by the
20 Federal Housing Administration;



1 (C) Obligations for the repayment of home loans made
2 under the Servicemen's Readjustment Act of 1944
3 or under Title II of the National Housing Act;
4 (D) Other obligations secured by first mortgages on
5 unencumbered improved real estate owned in fee
6 simple; provided that the amount of the
7 obligation at the time investment is made therein
8 shall not exceed eighty per cent of the value of
9 the real estate and improvements mortgaged to
10 secure it, and except that the amount of the
11 obligation at the time investment is made therein
12 may exceed eighty per cent but no more than
13 ninety per cent of the value of the real estate
14 and improvements mortgaged to secure it; provided
15 further that the obligation is insured or
16 guaranteed against default or loss under a
17 mortgage insurance policy issued by a casualty
18 insurance company licensed to do business in the
19 State. The coverage provided by the insurer
20 shall be sufficient to reduce the system's
21 exposure to not more than eighty per cent of the
22 value of the real estate and improvements



1 mortgaged to secure it. The insurance coverage
2 shall remain in force until the principal amount
3 of the obligation is reduced to eighty per cent
4 of the market value of the real estate and
5 improvements mortgaged to secure it, at which
6 time the coverage shall be subject to
7 cancellation solely at the option of the board
8 [~~of trustees~~]. Real estate shall not be deemed
9 to be encumbered within the meaning of this
10 subparagraph by reason of the existence of any of
11 the restrictions, charges, or claims described in
12 section 431:6-308;

13 (E) Other obligations secured by first mortgages of
14 leasehold interests in improved real estate;
15 provided that:

16 (i) Each [~~such~~] leasehold interest at [~~such~~] the
17 time shall have a current term extending at
18 least two years beyond the stated maturity
19 of the obligation it secures; and

20 (ii) The amount of the obligation at the time
21 investment is made therein shall not exceed
22 eighty per cent of the value of the



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



1 cancellation solely at the option of the board
2 ~~[of trustees]~~;

3 (F) Obligations for the repayment of home loans
4 guaranteed by the department of Hawaiian home
5 lands pursuant to section 214(b) of the Hawaiian
6 Homes Commission Act, 1920; and

7 (G) Obligations secured by second mortgages on
8 improved real estate for which the mortgagor
9 procures a second mortgage on the improved real
10 estate for the purpose of acquiring the
11 leaseholder's fee simple interest in the improved
12 real estate; provided that any prior mortgage
13 does not contain provisions that might jeopardize
14 the security position of the retirement system or
15 the borrower's ability to repay the mortgage
16 loan.

17 The board ~~[of trustees]~~ may retain ~~[such]~~ the real
18 estate, including leasehold interests therein, as it
19 may acquire by foreclosure of mortgages or in
20 enforcement of security, or as may be conveyed to it
21 in satisfaction of debts previously contracted;
22 provided that all ~~[such]~~ the real estate, other than



1 leasehold interests, shall be sold within five years
2 after acquiring the same, subject to extension by the
3 governor for additional periods not exceeding five
4 years each, and that all [~~such~~] the leasehold
5 interests shall be sold within one year after
6 acquiring the same, subject to extension by the
7 governor for additional periods not exceeding one year
8 each;

9 (2) Government obligations, etc. Obligations of any of
10 the following classes:

11 (A) Obligations issued or guaranteed as to principal
12 and interest by the United States or by any state
13 thereof or by any municipal or political
14 subdivision or school district of any of the
15 foregoing; provided that principal of and
16 interest on [~~such~~] the obligations are payable in
17 currency of the United States; or sovereign debt
18 instruments issued by agencies of, or guaranteed
19 by foreign governments;

20 (B) Revenue bonds, whether or not permitted by any
21 other provision hereof, of the State or any
22 municipal or political subdivision thereof,



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



1 Inter-American Development Bank, the Asian Development
2 Bank, or the African Development Bank;

3 (7) Obligations secured by collateral consisting of any of
4 the securities or stock listed above and worth at the
5 time the investment is made at least fifteen per cent
6 more than the amount of the respective obligations;

7 (8) Insurance company obligations. Contracts and
8 agreements supplemental thereto providing for
9 participation in one or more accounts of a life
10 insurance company authorized to do business in Hawaii,
11 including its separate accounts, and whether the
12 investments allocated thereto are comprised of stocks
13 or other securities or of real or personal property or
14 interests therein;

15 (9) Interests in real property. Interests in improved or
16 productive real property in which, in the informed
17 opinion of the board [~~of trustees~~], it is prudent to
18 invest funds of the system. For purposes of this
19 paragraph, "real property" includes any property
20 treated as real property either by local law or for
21 federal income tax purposes. Investments in improved
22 or productive real property may be made directly or



1 through pooled funds, including common or collective
2 trust funds of banks and trust companies, group or
3 unit trusts, limited partnerships, limited liability
4 companies, investment trusts, title-holding
5 corporations recognized under section 501(c) of the
6 Internal Revenue Code of 1986, as amended, similar
7 entities that would protect the system's interest, and
8 other pooled funds invested on behalf of the system by
9 investment managers retained by the system;

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



1 paragraphs, and notwithstanding any limitation of any
2 of the foregoing paragraphs (including paragraph (4));
3 and

4 (11) Private placements. Investments in institutional
5 blind pool limited partnerships, limited liability
6 companies, or direct investments that make private
7 debt and equity investments in privately held
8 companies, including but not limited to investments in
9 Hawaii high technology businesses or venture capital
10 investments that, in the informed opinion of the board
11 [~~of trustees~~], are appropriate to invest funds of the
12 system. In evaluating venture capital investments,
13 the board [~~of trustees~~] shall consider, among other
14 things, the impact an investment may have on job
15 creation in Hawaii and on the state economy."

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

18 "**§88-132 Service credit; payment of contributions.** (a)
19 Every active member of the system who leaves active service of
20 the State or any county for the purpose of entering the military
21 service of the United States in time of war or declared national
22 or state emergency, or is called involuntarily to active duty



1 after June 24, 1950, shall, so long as the member remains in
2 military service, be allowed service credit in the system to the
3 same extent as if the member were continuously in the active
4 service of the State or county, as the case may be, in the
5 position which the member held immediately prior to the member's
6 entry into military service; provided that in no event shall the
7 allowance of service credit exceed a period of four years.

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

20 (1) The cumulative length of time for which a member shall
21 be entitled to payment ~~[be made for more than]~~ of the



1 contributions shall not exceed four years~~[.—This~~
2 ~~section shall apply only to members who return];~~

3 (2) The member returns to state or county government
4 service within ninety days of release from active duty
5 or dies in the performance of the member's military
6 service; and

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

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

12 (1) The member returns to State or county government
13 service; or

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

17 (d) If the State or county, as the case may be, fails to
18 pay the contributions within the time specified in subsection
19 (c), the State or county, as the case may be, shall also pay to
20 the system interest at the rate of four and one-half per cent a
21 year compounded annually from the date the member returned to
22 state or county government service or the date of the member's



1 death in the performance of the member's military duty until
2 payment is made. Interest paid on the portion of the
3 contributions that would have been payable by the member shall
4 be included in the member's accumulated contributions."

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

7 "**§88-137 Ordinary death benefit.** If any service member
8 dies, the service member shall be deemed to be on authorized
9 leave without pay for the purposes of the ordinary death benefit
10 provided in sections 88-84, 88-286(b), and 88-338 [~~shall be paid~~
11 ~~to the service member's estate or the service member's~~
12 ~~designated beneficiary~~]."

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

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



1 ~~entitled to the~~ ordinary death benefit shall be payable as
2 provided in section 88-137."

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

5 "**§88-140 Duration of service member's status.** [~~A service~~
6 ~~member shall continue to be entitled to the benefits of the~~
7 ~~Servicemen's Act until the expiration of ninety days after the~~
8 ~~termination of the service member's service in the armed forces~~
9 ~~unless the service member shall within the ninety day period~~
10 ~~have reentered the service of the State or any county, in a~~
11 ~~position which constitutes the service member an employee as~~
12 ~~defined by section 88-21, in which latter event the service~~
13 ~~member's status thenceforth shall be the same as that of any~~
14 ~~other regular member of the system in the service without any~~
15 ~~loss of the service credit preserved and allowed to the service~~
16 ~~member under the Servicemen's Act, or unless the service member~~
17 ~~shall have resigned before the expiration of the ninety day~~
18 ~~period and waived the service member's right to such~~
19 ~~reemployment. In the event the service member fails to reenter~~
20 ~~the service of the State or any county within the ninety-day~~
21 ~~period, and shall not have resigned from the system and waived~~
22 ~~the service member's right to reemployment, the service member's~~



1 ~~status thereafter shall be the same as that of a regular member~~
2 ~~who terminated the regular member's employment as such an~~
3 ~~employee and such termination shall be deemed to have occurred~~
4 ~~on the ninetieth day after the termination of the service~~
5 ~~member's service in the armed forces.~~

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



1 June 24, 1950, shall be entitled to the benefits of sections
2 88-134, 88-135, and 88-137:

3 (1) For so long as the member remains in active full-time
4 military service, up to an aggregate of five years;
5 and

6 (2) For an additional period ending on the earlier of:

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

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

12 (b) If a service member resigns from employment by the
13 State or a county and waives the service member's right to
14 reemployment, the service member's status shall be the same as a
15 regular member who terminated the regular member's employment as
16 of the earlier of:

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

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

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



1 "**§88-251 Applicability.** The following provisions of part
2 II shall apply to this part:

3 (1) Subpart A, except the definitions provided in section
4 88-21, unless expressly adopted in section 88-261;

5 (2) Subpart B, except sections 88-45, 88-45.5, 88-46,
6 88-48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and
7 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,
10 88-84 [~~to~~], 88-85, 88-87 [~~to~~], 88-88, 88-89, 88-96,
11 88-97, and 88-98;

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

13 (5) Subpart E."

14 SECTION 26. Section 88-271, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

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

17 (1) Is in service on June 30, 1984, or who returns to
18 service after June 30, 1984, but before July 1, 2006,
19 and has vested benefit status as provided in section
20 88-96(b); and

21 (2) Is in a position covered by Title II of the Social
22 Security Act,



1 may elect to become a class C member effective January 1, 1985;
2 or upon return to service, by filing an election form with the
3 board. The election shall be made prior to December 1, 1984, or
4 within thirty days of return to service and shall be
5 irrevocable. A class A or class B member who makes [~~such~~] an
6 election shall be refunded all accumulated contributions and
7 shall not be required to make further contributions upon
8 becoming a class C member. The refund shall be made by March 31,
9 1985, or within ninety days after return to service. Upon the
10 effective date of the election, all rights as a class A or class
11 B member shall be extinguished."

12 SECTION 27. Section 88-273, Hawaii Revised Statutes, is
13 amended by amending subsections (c) and (d) to read as follows:

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



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

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



1 and other factors in accordance with the benefit formula of a
2 class A or class B member in existence at the time of the
3 member's final retirement. If the member's designation of
4 beneficiary was irrevocable upon the member's initial
5 retirement, the member may not change the member designated
6 beneficiary when the member returns to service or when the
7 member again retires."

8 SECTION 28. Section 88-283, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending its title and subsections (a) and (b) to
11 read:

12 "~~§88-283 [Retirement]~~ **Election of retirement allowance**
13 ~~[options.]~~ **option.** (a) Upon retirement, any member may elect
14 to receive the maximum retirement allowance to which the member
15 is entitled, computed in accordance with section 88-282, 88-284,
16 or 88-285, and, if the member elects to receive the maximum
17 retirement allowance, the member's beneficiary shall not be
18 entitled to any benefit upon the member's death, except as
19 provided in subsection (g). In lieu of the maximum retirement
20 allowance [~~described in sections 88-282, 88-284, and 88-285~~], a
21 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~~] if the retirant's designated
11 beneficiary dies at any time after the retirant
12 retired, but before the death of the retirant, the
13 retirant, upon the death of the retirant's designated
14 beneficiary, shall receive a retirement allowance,
15 including cumulative post retirement allowances,
16 calculated as if the retirant had selected the maximum
17 retirement allowance to which the retirant is
18 entitled;

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



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

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

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



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

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

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

9 2. By amending subsections (e), (f), and (g) to read:

10 (e) The system shall not be liable for any false
11 statements made to the system by the member~~[-]~~ or by the
12 member's employer.

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

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



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

19 (g) [~~In the event of the death of~~] If the retirant dies
20 within one year after the date of retirement, the retirant's
21 designated beneficiary may elect to receive either:



- 1 (1) The death benefit under the retirement option selected
2 by the retirant; or
- 3 (2) The death benefit under option B; provided that the
4 difference between the benefit that the retirant
5 received and the benefit that would have been payable
6 to the retirant had the retirant elected to receive a
7 retirement allowance under option B shall be returned
8 to the system."

9 SECTION 29. Section 88-286, Hawaii Revised Statutes, is
10 amended by amending subsections (a), (b), and (c) to read as
11 follows:

12 "(a) The surviving spouse or reciprocal beneficiary and
13 [~~dependent child or~~] children under the age of eighteen of a
14 member at the time of the member's death shall be eligible for a
15 death benefit if the member suffers either an ordinary death
16 while in service or on authorized leave without pay after
17 accumulating ten years of credited service or an accidental
18 death.

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

21 (1) For the surviving spouse or reciprocal beneficiary, an
22 allowance equal to one-half of the member's accrued



1 maximum retirement allowance unreduced for age,
2 payable until remarriage, marriage, or entry into a
3 new reciprocal beneficiary relationship, as if the
4 member had retired on the first day of a month
5 following the member's death, except for the month of
6 December when retirement on the first or last day of
7 the month shall be allowed; and for each [~~dependent~~]
8 child under the age of eighteen an allowance equal to
9 ten per cent of the member's accrued maximum
10 retirement allowance unreduced for age, payable until
11 the [~~dependent~~] child attains age eighteen; provided
12 that the aggregate death benefits for all the
13 [~~dependent~~] children under the age of eighteen shall
14 not exceed twenty per cent of the member's accrued
15 retirement allowance unreduced for age; or
16 (2) For the surviving spouse or reciprocal beneficiary, if
17 the member was eligible for retirement at the time of
18 death in service, and death occurred after June 30,
19 1990, an allowance that would have been payable as if
20 the member had retired on the first day of a month
21 following the member's death, except for the month of
22 December when retirement on the first or last day of



1 the month shall be allowed and had elected to receive
2 a retirement allowance under option B of section 88-
3 283; and

4 (3) If there is no surviving spouse or reciprocal
5 beneficiary, each [~~dependent~~] child under the age of
6 eighteen shall receive an allowance equal to twenty
7 per cent of the member's accrued maximum retirement
8 allowance unreduced for age, payable on the first day
9 of a month following the member's death, except for
10 the month of December when retirement on the first or
11 last day of the month shall be allowed, until the
12 [~~dependent~~] child attains age eighteen; provided that
13 the aggregate death benefits for all the [~~dependent~~]
14 children under the age of eighteen shall not exceed
15 forty per cent of the member's accrued maximum
16 retirement allowance unreduced for age.

17 For the purpose of determining eligibility for the ordinary
18 death benefit, a year round school employee shall be considered
19 in service during the July and August preceding a transfer to a
20 traditional school schedule if the employee was in service for
21 the entire prior school year and has a contract for the upcoming
22 traditional school year. The application for ordinary death



1 benefits shall be filed no later than three years from the date
2 of the member's death.

3 (c) In the case of accidental death~~[7]~~ as determined by
4 the board pursuant to section 88-85.5, the death benefit shall
5 be effective on the first day of [a] the month following the
6 member's death, except for the month of December when retirement
7 on the first or last day of the month shall be allowed, as
8 follows:

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

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

18 (A) Ten per cent of the member's accrued maximum
19 retirement allowance unreduced for age; provided
20 that the aggregate death benefits for all the
21 ~~[dependent]~~ children under the age of eighteen
22 shall not exceed twenty per cent of the member's



1 accrued maximum retirement allowance unreduced
2 for age; or
3 (B) Three per cent of the member's average final
4 compensation; provided that the aggregate death
5 benefits for all the [~~dependent~~] children under
6 the age of eighteen shall not exceed six per cent
7 of the member's average final compensation.

8 The death benefit under this paragraph shall be
9 payable to each [~~dependent~~] child until the
10 [~~dependent~~] child attains age eighteen; and

11 (3) If there is no surviving spouse or reciprocal
12 beneficiary, each [~~dependent~~] child under age eighteen
13 shall receive an allowance equal to the greater of:

14 (A) Twenty per cent of the member's accrued maximum
15 retirement allowance unreduced for age; provided
16 that the aggregate death benefits for all the
17 [~~dependent~~] children under the age of eighteen
18 shall not exceed forty per cent of the member's
19 accrued maximum retirement allowance unreduced
20 for age; or

21 (B) Six per cent of the member's average final
22 compensation; provided that the aggregate death



1 benefits for all the [~~dependent~~] children under
2 the age of eighteen shall not exceed twelve per
3 cent of the member's average final compensation.

4 The death benefit under this paragraph shall be
5 payable to each [~~dependent~~] child until the
6 [~~dependent~~] child attains age eighteen."

7 SECTION 30. Section 88-301, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[§]~~**§88-301**~~[§]~~ **Applicability.** The following provisions of
10 part II of this chapter shall apply to this part:

- 11 (1) Subpart A;
12 (2) Subpart B, except sections 88-45, 88-46, 88-48, 88-52,
13 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;
14 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,
15 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83,
16 88-84, 88-85, 88-88, 88-89, 88-96, 88-97, and 88-98;
17 (4) Subpart D; and
18 (5) Subpart E."

19 SECTION 31. Section 88-321, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) Any member, except for [~~members~~] a member described
22 in subsection (c), who is in service on June 30, 2006, or who



1 returns to service after June 30, 2006, and has vested benefit
2 status in accordance with section 88-96(b), may elect to become
3 a class H member effective July 1, 2006, or upon return to
4 service, by filing an election form with the system in
5 accordance with this section. The election shall be made prior
6 to April 1, 2006, by members in service on February 28, 2006[-];
7 provided that any member in service on February 28, 2006, who is
8 absent from the state on that date while in the military service
9 of the United States, shall have thirty days after the member
10 returns to the member's regular employment with the State or a
11 county to make the election. The election shall be made by
12 members entering or returning to service from March 1, 2006,
13 through June 30, 2006, within sixty days of entering or
14 returning to service. The election shall be made by members
15 entering or returning to service after [~~February 28,~~] June 30,
16 2006, within thirty days of entering or returning to service.
17 The election shall be irrevocable.

18 (b) Notwithstanding any other law to the contrary, after
19 June 30, 2006:

20 (1) A class C member who returns to service and who does
21 not return to service as a class A or a class B member
22 shall become a class H member upon return to service;



1 provided that if the member is a former class A or
2 class B member who received a refund of contributions
3 picked up and paid by the member's employer pursuant
4 to section 88-46(b), the member may not become a class
5 H member and shall return to service as a class C
6 member, unless the refund was made pursuant to section
7 88-96 or 88-271(b); and

- 8 (2) A class A or a class B member, who returns to service
9 but does not have vested benefit status as provided in
10 section 88-96(b) and who does not return to service as
11 a class A or class B member, shall become a class H
12 member upon return to service[~~. The system shall~~
13 ~~return to the member the member's accumulated~~
14 ~~contributions]~~ and the member's credited service as a
15 class A or B member shall be converted to class C
16 credited service. The system shall return to the
17 member the member's accumulated contributions if the
18 member's accumulated contributions are \$1,000 or less
19 at the time of distribution. If the member's
20 accumulated contributions for the class A or B
21 credited service that was converted to class C
22 credited service are greater than \$1,000 and the



1 member does not make written application,
2 contemporaneously with the member's return to service,
3 for return of such contributions, the member, except
4 as provided by section 88-341, may not withdraw the
5 member's accumulated contributions for the class A or
6 B credited service that was converted to class C
7 credited service until the member retires or attains
8 age sixty-two."

9 SECTION 32. Section 88-322, Hawaii Revised Statutes, is
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) Class C members who are in service on June 30, 2006,
12 and make the election to become class H members pursuant to
13 section 88-321(a), shall have the option to convert some or all
14 of their class C credited service, as of June 30, 2006, to class
15 H credited service by paying the full actuarial cost of the
16 conversion as of June 30, 2006, in the manner provided in
17 subsection (d). The option to convert class C credited service
18 to class H credited service shall [~~not~~] also apply:

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



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

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

8 (b) All class A and class B credited service of class A or
9 class B members who make the election to become class H members
10 pursuant to section 88-321(a) shall be converted to class H
11 credited service. The cost of the conversion of class A or
12 class B credited service shall be the member's accumulated
13 contributions as of the date of conversion. Verified membership
14 service credit paid for pursuant to section 88-59 under an
15 irrevocable payroll authorization entered into prior to
16 July 1, 2006, shall be credited as class H credited service.
17 Class A and class B members who are in service on June 30, 2006,
18 and make the election to become class H members pursuant to
19 section 88-321(a) shall have the option to convert some or all
20 of their class C credited service, as of June 30, 2006, to class
21 H credited service by paying, in the manner provided in
22 subsection (d), the full actuarial cost of the conversion as of



1 June 30, 2006. 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
5 June 30, 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
8 June 30, 2006[~~, which the member has failed to claim~~
9 ~~by June 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 SECTION 33. Section 88-324, Hawaii Revised Statutes, is
14 amended by amending subsections (c), (d), and (e) to read as
15 follows:

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



1 (1) By deductions from the member's compensation pursuant
2 to section 414(h)(2) of the Internal Revenue Code of
3 1986, as amended, under the employer pick up plan
4 under section 88-326. An irrevocable payroll
5 authorization filed by the member for a period not to
6 exceed sixty months shall remain in effect until the
7 completion of the payroll payments or termination of
8 employment, whichever is earlier. The amount of
9 service credit that may be acquired pursuant to this
10 method shall not exceed the period over which the
11 payroll payments are made. The member may elect to
12 have:

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

19 (B) Deductions from the member's compensation of one
20 and one-half times the contribution rate
21 applicable to the member under section 88-45 as
22 of June 30, 2006, over a period equal to twice



1 the period for which membership service credit is
2 allowable, not to exceed sixty months; or

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

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

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

17 (d) Verified prior service and verified membership service
18 for which a former class C member in service on June 30, 2006,
19 was eligible as of June 30, 2006, but failed to claim by
20 ~~[June 30, 2006,]~~ the date established by the board pursuant to
21 section 88-322(a), shall be credited at no cost as class C
22 credited service.



1 (e) Except as provided in subsection (f)[+] or in section
2 88-322:

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

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

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

12 SECTION 34. Section 88-333, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§88-333 [Retirement]~~ Election of retirement allowance
15 [~~options.~~] option. (a) Upon retirement:

16 (1) Any class H member may elect to receive the maximum
17 retirement allowance to which the member is entitled,
18 computed in accordance with the provisions described
19 under section 88-332, 88-335, or 88-337, and if the
20 member elects to receive the maximum retirement
21 allowance, in the event of the member's death, there
22 shall be paid to the member's beneficiary, or



1 otherwise to the member's estate, the difference
2 between the balance of the member's accumulated
3 contributions at the time of the member's retirement
4 and the retirement allowance paid or payable to the
5 member prior to death; or

6 (2) In lieu of the maximum allowance to which the member
7 is entitled, computed in accordance with the
8 provisions described under section 88-332, 88-335, or
9 88-337, the member may elect to receive the member's
10 retirement allowance under any one of the [~~optional~~
11 ~~plans~~] options described in section 88-83, which shall
12 be actuarially equivalent to the maximum allowance.

13 To receive benefits, the beneficiary shall have been
14 designated by the member in the form and manner prescribed by
15 the board.

16 (b) If a class H member dies after the date of the filing
17 of the member's written application to retire but prior to the
18 retirement date designated by the member, and, if the member was
19 eligible to retire on the date of the member's death, the
20 member's designated beneficiary, or otherwise the personal
21 representative of the member's estate, [~~if the member was~~
22 ~~eligible to retire on the date of the member's death,~~] may elect



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

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

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

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

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

22 (A) Option 2 or 3 described in section 88-83;



- 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 (e) No election under this section shall take effect

10 unless:

11 (1) The spouse or reciprocal beneficiary of the member is

12 furnished written notification that:

13 (A) Specifies the retirement date, the benefit option

14 selected, and the beneficiary designated by the

15 member;

16 (B) Provides information indicating the effect of the

17 election; and

18 (C) Is determined adequate by rules adopted by the

19 board in accordance with chapter 91;

20 (2) The member selects option 2 or option 3 under section

21 88-83 and designates the spouse or reciprocal

22 beneficiary as the 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
9 beneficiary, or has failed to provide the system
10 with the name and address of the member's spouse
11 or reciprocal beneficiary; or

12 (D) Of other reasons, as established by board rules
13 adopted in accordance with chapter 91.

14 Any notice provided to a spouse or reciprocal beneficiary,
15 or determination that the notification of a spouse or reciprocal
16 beneficiary cannot be provided shall be effective only with
17 respect to that spouse or reciprocal beneficiary. The system
18 shall rely upon the representations made by a member as to
19 whether the member has a spouse or reciprocal beneficiary and
20 the name and address of the member's spouse or reciprocal
21 beneficiary. The system shall not be liable for any false
22 statements made by the member.



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

4 (1) The terms and conditions of the various benefit
5 options;

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

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

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

14 SECTION 35. Section 88-338, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~f~~]**§88-338**[~~]~~ **Ordinary death benefit.** (a) Upon receipt
17 by the [~~board~~] system of proper proof of a class H member's
18 death occurring in service or while on authorized leave without
19 pay and if no pension is payable under section 88-339, there
20 shall be paid to the member's designated beneficiary an ordinary
21 death benefit as follows:



- 1 (1) If the member had less than five years of credited
2 service at the time of death, the member's accumulated
3 contributions shall be paid to the member's designated
4 beneficiary;
- 5 (2) If the member had five or more years of credited
6 service at the time of death, an amount equal to the
7 member's hypothetical account balance shall be paid to
8 the member's designated beneficiary;
- 9 (3) If the member had ten or more years of credited
10 service at the time of death, the member's designated
11 beneficiary may elect to receive in lieu of any other
12 payment provided in this section, the allowance that
13 would have been payable as if the member had retired
14 on the first day of a month following the member's
15 death, except for the month of December when
16 retirement on the first or last day of the month shall
17 be allowed. Benefits payable under this paragraph
18 shall be calculated under option 3 of section 88-83
19 and computed on the basis of section 88-335; or
- 20 (4) If the member was eligible for service retirement at
21 the time of death, the member's designated beneficiary
22 may elect to receive in lieu of any other payment



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

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

12 (1) To the surviving spouse or reciprocal beneficiary, a
13 benefit as specified under subsection (a);

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

19 (3) To the deceased member's estate, if there is no
20 surviving spouse or reciprocal beneficiary or
21 [~~dependent child or~~] children[~~7~~] under the age of



1 eighteen, a benefit as specified under paragraph (1)
2 or (2) of subsection (a).

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

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

11 SECTION 36. Section 88-339, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) [~~Upon the receipt by the board of trustees, of proper~~
14 ~~proof of a class H member's death,~~] In the case of an accidental
15 death as determined by the board pursuant to section 88-85.5,
16 there shall be paid to the member's designated beneficiary or to
17 the member's estate the amount of the member's accumulated
18 contributions and [~~if, upon the receipt of evidence or proof~~
19 ~~that the death was the natural and proximate result of an~~
20 ~~accident occurring at some definite time and place while the~~
21 ~~member was in the actual performance of duty, or that the death~~
22 ~~was due to the result of some occupational hazard, the board~~



1 ~~shall decide that the death was the result of an accident in the~~
2 ~~performance of duty and not caused by wilful negligence on the~~
3 ~~part of the member,]~~ there shall be paid in lieu of the ordinary
4 death benefit payable under section 88-338[~~, effective on the~~
5 ~~first day of a month following the member's death, except for~~
6 ~~the month of December when benefits shall be effective on the~~
7 ~~first or last day of the month,]~~ a pension of one-half of the
8 average final compensation of the member:

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



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

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

17 SECTION 37. Section 88-341, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Any class H member who ceases to be an employee and
20 who has fewer than five years of credited service [~~shall~~],
21 excluding unused sick leave, shall upon application to the
22 board, be paid all of the former employee's accumulated



1 contributions, and the former employee's membership shall
2 thereupon terminate and all credited service shall be forfeited;
3 provided that [~~any such~~] an individual shall not be paid the
4 individual's accumulated contributions if either:

5 (1) The individual becomes an employee again within
6 fifteen calendar days from the date the individual
7 ceased to be an employee; or

8 (2) At the time the application for return of accumulated
9 contributions is received by the board, the individual
10 has become an employee again.

11 Regular interest shall be credited to the former employee's
12 account until the former employee's accumulated contributions
13 are withdrawn; provided that the former employee's membership
14 shall not continue after the fourth full year following the
15 calendar year in which the individual's employment terminates.
16 If the former employee does not become an employee again and has
17 not withdrawn the former employee's accumulated contributions,
18 the system shall return the former employee's accumulated
19 contributions to the former employee as soon as possible after
20 the former employee attains age sixty-two."

21 SECTION 38. Section 88-344, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[§]§88-344[§]~~ **Return to service of a retirant.** (a) Any
2 retirant who retired under the provisions of part VIII of this
3 chapter and returns to service requiring membership in the
4 system as a class H member shall be reenrolled as an active
5 member, and the retirant's retirement allowance shall be
6 suspended. ~~[At such time as]~~ When the member again retires, the
7 retirement allowance shall be the sum of:

- 8 (1) The allowance to which the member was entitled under
9 the ~~[mode of]~~ retirement allowance option selected
10 when the member previously retired and which was
11 suspended; and
- 12 (2) For the period of service during the member's
13 reemployment, the allowance to which the member is
14 entitled for that service based on the ~~[mode of]~~
15 retirement allowance option initially selected and
16 computed for the member's age, average final
17 compensation, and other factors in accordance with the
18 benefit formula of a class H member in existence at
19 the time of the member's final retirement.

20 (b) Any retirant who retired under part VIII and returns
21 to service requiring membership in the system as a class A or
22 class B member shall be reenrolled as an active member, and the



1 retirant's retirement allowance shall be suspended. [~~At such~~
2 ~~time as~~] When the member again retires, the retirement allowance
3 shall be the sum of:

4 (1) The allowance to which the member was entitled under
5 the [~~mode of~~] retirement allowance option selected
6 when the member previously retired and which was
7 suspended; and

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

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

21 (1) Have the retirant's retirement allowance suspended;



1 (2) Forfeit the special retirement incentive benefit and
2 any related benefit provided by chapter 88; and

3 (3) Be subject to the age and service requirements under
4 section 88-331 when the member again retires.

5 (d) If a retirant's designation of beneficiary was
6 irrevocable upon the retirant's initial retirement, the retirant
7 may not change the retirant's designated beneficiary when the
8 retirant returns to service or when the former retirant again
9 retires.

10 (e) The board shall adopt [~~such~~] any rules as may be
11 required to administer the purposes of this section."

12 SECTION 39. Section 88-261, Hawaii Revised Statutes, is
13 amended by repealing the definitions of "accidental death" and
14 of "ordinary death".

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

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



1 SECTION 40. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 41. This Act shall take effect on July 1, 2006;
4 provided that section 26 shall take effect retroactive to
5 July 1, 2003, sections 31 and 39 shall take effect retroactive
6 to July 1, 2004, section 32 shall take effect retroactive to
7 January 1, 2006, and sections 34 and 35 shall take effect on
8 June 30, 2006.



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 ERS 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 nonvested contributory plan members whose accumulated contributions are more than \$1,000 to withdraw these funds upon their return to service. Allows noncontributory plan members hired or returning to service from 3/1/06 through 6/30/06 to elect to join the hybrid plan. (SB2273 HD1)

