

**Report Title:**

ERS; benefits and entitlements

**Description:**

Adds a definition of "child or children" to conform to administrative interpretation and includes in the definition: children living with an employees' retirement system member in a regular parent-child relationship for whom the member is the guardian or has legal and physical custody pursuant to a valid court order. Allows former contributory plan members and returning nonvested contributory plan members whose employees' retirement system accumulated contribution balances are \$1,000 or more to leave their contributions in the system until they reach age 62.



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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

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

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

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



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

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

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

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

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

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



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

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

18 SECTION 3. Section 88-21, Hawaii Revised Statutes, is  
19 amended by adding new definitions to be appropriately inserted  
20 and to read as follows:

21 "Accidental death": death which is the natural and  
22 proximate result of an accident occurring at some definite time



1 and place while the member was in the actual performance of  
2 duty, or due to the result of some occupational hazard, and not  
3 caused by wilful negligence on the part of the member.

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

5 "Child or children":

6 (1) A natural child of a member;

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

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

9 (i) Who lives with a member in a regular parent-child  
10 relationship; and

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

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

17 SECTION 4. Section 88-21, Hawaii Revised Statutes, is  
18 amended by amending the definitions of "beneficiary" and  
19 "retirement allowance" to read as follows:

20 "Beneficiary": the recipient of any benefit from the  
21 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 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 88-  
9 76 shall be used to determine the retirement allowance."

10           SECTION 7. Section 88-61, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

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

17           SECTION 8. Section 88-61, Hawaii Revised Statutes, is  
18 amended by amending subsection (c) to read as follows:

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 member reaches seventy-five per  
22 cent of the member's average final compensation. The member's



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

11 SECTION 9. 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 member did not withdraw  
3 ~~[his]~~ the member's accumulated contributions prior to ~~[his]~~ the  
4 member's return to service, such contributions shall be returned  
5 to ~~[him]~~ the member as part of the process of enrolling ~~[him]~~  
6 the member in the system~~[-]~~ if the member's accumulated  
7 contributions are \$1,000 or less at the time of distribution.  
8 If the accumulated contributions for the service the member had  
9 when the member previously terminated employment have not  
10 previously been returned to the member, the contributions,  
11 together with regular interest thereon, shall be returned to the  
12 member upon written application by the member or as soon as  
13 possible after the member attains age sixty-two. The member  
14 shall not be entitled to service credit by reason of the  
15 system's retention of the member's accumulated contributions for  
16 the service the member had when the member previously terminated  
17 employment.

18 In order to be eligible for any benefit, ~~[he]~~ the member  
19 must fulfill the membership service requirements for such  
20 benefit through membership service after again becoming a member  
21 in addition to meeting any other eligibility requirement  
22 established for such benefit; provided that the membership



1 service requirement shall be exclusive of any former service  
2 acquired in accordance with section 88-59 or any other section  
3 in this part."

4 SECTION 10. Section 88-74.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

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

17 Beginning January 1, 2004, or the first day of the seventh  
18 calendar month following the month of retirement, whichever is  
19 later, interest payments calculated as simple interest shall be  
20 prorated up to the date payment is made; provided that any  
21 pension adjustment made after the [~~retiree's~~] retirant's pension



1 has once been finalized shall not be subject to any interest  
2 payment.

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

8 SECTION 11. Section 88-76, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§88-76 Allowance on ordinary disability retirement.** Upon  
11 retirement for ordinary disability, a member shall receive a  
12 maximum retirement allowance of one and three-fourths per cent  
13 of the member's average final compensation for each [~~full~~] year  
14 of credited service; except that for each year of credited  
15 service as a judge, an elective officer, or a legislative  
16 officer, the member shall receive a maximum retirement allowance  
17 computed as provided in section 88-74(3) or (4), as applicable.  
18 The minimum retirement allowance payable under this section  
19 shall be thirty per cent of the member's average final  
20 compensation."

21 SECTION 12. Section 88-81.5, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:



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

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

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



1 SECTION 13. Section 88-83, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§88-83 Election of [~~mode of~~] retirement allowance[~~-~~]  
4 option. (a) [~~Maximum allowance-~~] Upon retirement, any member  
5 may elect to receive the maximum retirement allowance to which  
6 the member is entitled computed in accordance with section 88-  
7 74, 88-76, or 88-80 and in the event of the member's death,  
8 there shall be paid to the member's beneficiary, otherwise to  
9 the member's estate, the difference between the balance of the  
10 member's accumulated contributions at the time of the member's  
11 retirement and the retirement allowance paid or payable to the  
12 member prior to death.

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

17 Option 1: The member may elect to receive a lesser  
18 retirement allowance during the member's lifetime. At the  
19 member's retirement, there shall be established an amount of  
20 initial insurance that shall be computed on the basis of  
21 actuarial factors adopted by the board of trustees. Upon the  
22 death of the retirant, any balance remaining in the initial



1 insurance reserve, after deducting the retirement allowance paid  
2 to the retirant prior to death, shall be paid to the retirant's  
3 beneficiary, otherwise to the retirant's estate. In lieu of the  
4 lump sum balance, the beneficiary may elect to receive an  
5 allowance for life based on the value of the balance; provided  
6 that the allowance is not less than \$100 per month.

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



1 designated under this option. The beneficiary designated under  
2 this option shall be a natural person, and benefits under this  
3 option may only be paid to a natural person.

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



1 natural person, and benefits under this option may only be paid  
2 to a natural person.

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

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

19       To receive benefits, the beneficiary must have been  
20 designated by the member in the form and manner prescribed by  
21 the board.





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

4       (b) In the event of the death of a member after the date  
5 of the filing of the member's written application to retire, but  
6 prior to the retirement date designated by the member, and, if  
7 the member was eligible to retire on the date of the member's  
8 death, the member's designated beneficiary~~[, if the member was~~  
9 ~~eligible to retire on the date of the [member's] death,~~] may  
10 elect to receive either death benefits under section 88-84 or  
11 the allowance under the option selected by the member that would  
12 have been payable had the member retired. The effective date of  
13 the member's retirement shall be [a] the first day of a month,  
14 except for the month of December when the effective date of  
15 retirement may be on the first or last day of the month, and  
16 shall be no earlier than the later of thirty days from the date  
17 the member's retirement application was filed or the day  
18 following the member's date of death. The election may not be  
19 made if, at the time of the member's death, there are  
20 individuals who are eligible to receive death benefits under  
21 section 88-85 who have made a claim for the benefits; provided  
22 that, if the designated beneficiary is an individual eligible to



1 receive benefits under section 88-85, the designated beneficiary  
2 may receive benefits pursuant to an election made under this  
3 section pending disposition of the claim for benefits under  
4 section 88-85.

5 (c) No election under this section shall take effect  
6 unless:

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

9 (A) Specifies the retirement date, the benefit option  
10 selected, and the beneficiary designated by the  
11 member;

12 (B) Provides information indicating the effect of the  
13 election; and

14 (C) Is determined adequate by rules established by  
15 the board pursuant to chapter 91; or

16 (2) The member selects option 2 or option 3 and designates  
17 the spouse or reciprocal beneficiary as the  
18 beneficiary; or

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

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



- 1 (B) The spouse or reciprocal beneficiary cannot be  
2 located;
- 3 (C) The member has failed to notify the system that  
4 the member has a spouse or reciprocal beneficiary  
5 or has failed to provide the system with the name  
6 and address of the member's spouse or reciprocal  
7 beneficiary; or
- 8 (D) Of other reasons, as established by rules of the  
9 board pursuant to chapter 91. Any notice  
10 provided to a spouse or reciprocal beneficiary,  
11 or determination that the notification of a  
12 spouse or reciprocal beneficiary cannot be  
13 provided, shall be effective only with respect to  
14 that spouse or reciprocal beneficiary. The  
15 system will rely upon the representations made by  
16 a member as to whether the member has a spouse or  
17 reciprocal beneficiary and the name and address  
18 of the member's spouse or reciprocal beneficiary.
- 19 (d) Each member, within a reasonable period of time before  
20 the member's retirement date, shall be provided a written  
21 explanation of:



- 1           (1) The terms and conditions of the various benefit  
2           options;
- 3           (2) The rights of the member's spouse or reciprocal  
4           beneficiary under subsection (c) to be notified of the  
5           member's election of a benefit option; and
- 6           (3) The member's right to make, and the effect of, a  
7           revocation of an election of a benefit option.
- 8           (e) The system shall not be liable for any false  
9           statements made to the system by the member[-] or by the  
10          member's employer.
- 11          (f) In the event of the death of the retirant within one  
12          year after the date of retirement, the retirant's designated  
13          beneficiary may elect to receive either the death benefit under  
14          the retirement allowance option selected by the retirant, or  
15          such benefits as would have been paid under section 88-84 had  
16          the retirant died immediately prior to retirement, less any  
17          payments which the retirant received.
- 18          (g) The increase in the retirant's benefit under options  
19          2, 3, and, if applicable, 4 upon the death of the retirant's  
20          designated beneficiary shall be effective the first day of the  
21          month following the date of death of the designated beneficiary.  
22          The retirant shall notify the system in writing and provide a



1 certified copy of the beneficiary's death certificate. The  
2 system shall make retroactive benefit payments to the retirant,  
3 not to exceed six months from the date the written notification  
4 and the certified copy of the death certificate are received by  
5 the system. The retroactive payments shall be without interest.

6 (h) Upon a member's retirement:

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

9 (2) The member's designation of a beneficiary shall be  
10 irrevocable if the retirement option elected by the  
11 member is:

12 (i) Option 2 or 3;

13 (ii) An option that includes option 2 or 3 in  
14 combination with some other form of benefit  
15 payment; or

16 (iii) Any other option for which the actuarial  
17 equivalent of the option to the maximum  
18 retirement allowance is determined at the time of  
19 the member's retirement in whole or in part on  
20 the age of the member's beneficiary."

21 SECTION 14. Section 88-84, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "**§88-84 Ordinary death benefit.** (a) Upon receipt by the  
2 system of proper proof of a member's death occurring in service  
3 or while on authorized leave without pay, there shall be paid to  
4 the member's designated beneficiary an ordinary death benefit  
5 consisting of:

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

19           (2) If the member had ten or more years of credited  
20 service at the time of death in service, and the death  
21 occurred after June 30, 1988, the member's designated  
22 beneficiary may elect to receive in lieu of any other



1 payment provided in this section, the allowance that  
2 would have been payable as if the member had retired  
3 on the first day of a month following the member's  
4 death, except for the month of December when  
5 retirement on the first or last day of the month shall  
6 be allowed. Benefits payable under this paragraph  
7 shall be calculated under option 3 of section 88-83  
8 and computed on the basis of section 88-76; or

9 (3) If the member was eligible for service retirement at  
10 the time of death in service, 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 2 of section 88-83.

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



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

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

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

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

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

21 SECTION 15. Section 88-85, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:





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

19 (1) To the surviving spouse or reciprocal beneficiary of  
20 the member to continue until the surviving spouse or  
21 reciprocal beneficiary remarries, marries, or enters  
22 into a new reciprocal beneficiary relationship;



- 1           (2) If there be no surviving spouse or reciprocal  
2           beneficiary, or if the surviving spouse or reciprocal  
3           beneficiary dies or remarries, marries, or enters into  
4           a new reciprocal beneficiary relationship before any  
5           child of the deceased member shall have attained the  
6           age of eighteen years, then to the deceased member's  
7           child or children under such age, divided in such  
8           manner as the board in its discretion shall determine,  
9           to continue as a joint and survivor pension of one-  
10          half of the deceased member's final compensation until  
11          every child dies, or attains such age; or
- 12          (3) If there is no surviving spouse or reciprocal  
13          beneficiary or child under the age of eighteen years  
14          surviving the deceased member, then to the deceased  
15          member's dependent father or dependent mother, as the  
16          deceased member shall have nominated by written  
17          designation duly acknowledged and filed with the  
18          board, or if there is no such nomination, then to the  
19          deceased member's dependent father or to the deceased  
20          member's dependent mother as the board, in its  
21          discretion, shall direct to continue for life.



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

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

7 "§88-85.5 [Accidental] Applications for accidental death  
8 [claims] benefits; approval by the board of trustees. (a) An  
9 application for service-connected accidental death benefits may  
10 be filed with the system by or on behalf of the claimant [~~as~~  
11 ~~specified in sections~~] pursuant to section 88-85, 88-286, [and]  
12 or 88-339[-], on a form provided by the system. The application  
13 shall be filed no later than [~~two~~] three years from the date of  
14 [~~receipt of the written notification from the system.~~] the  
15 member's death.

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

19 (1) A copy of the employer's report of the accident  
20 submitted by the employer to the department of labor  
21 and industrial relations, workers' compensation  
22 division, and other reports relating to the accident;



- 1 (2) A certified statement from the head of the department  
2 in which the deceased member was employed, stating the  
3 date, time, and place of the accident, and the nature  
4 of the service being performed when the accident  
5 occurred. The statement shall also include an opinion  
6 as to whether or not the accident was the result of  
7 wilful negligence on the deceased member's part;
- 8 (3) A copy of the latest position description of the  
9 deceased member's duties and responsibilities;
- 10 (4) A certified copy of the death certificate; and
- 11 (5) A copy of an autopsy report, if performed.
- 12 (c) ~~[If the medical board certifies that the death was the~~  
13 ~~natural and proximate result of an accident occurring at some~~  
14 ~~definite time and place while the member was in the actual~~  
15 ~~performance of duty, or that the death was due to the result of~~  
16 ~~some occupational hazard, the board shall decide that the death~~  
17 ~~was the result of an accident in the performance of duty and not~~  
18 ~~caused by wilful negligence on the part of the member.] Upon~~
- 19 the system's receipt of the application and documents specified  
20 in subsection (b), the medical board shall determine and certify  
21 to the board of trustees whether the member's death was an  
22 accidental death as defined in section 88-21.



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

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

6        (2) A finding by the medical board.

7        ~~[(d)]~~(e) After the medical board submits its certification  
8 to the system, the board of trustees shall approve or disapprove  
9 the application. Upon approval~~[7]~~ of an application, benefits  
10 shall be paid ~~[effective the date the claim was filed with the~~  
11 system, in accordance with sections] as provided in section 88-  
12 85, 88-286, ~~[and]~~ or 88-339."

13        SECTION 17. Section 88-93, Hawaii Revised Statutes, is  
14 amended to read as follows:

15        "**§88-93 Named beneficiaries by ~~[active]~~ members~~[7]~~ and by**  
16 **former employees with vested benefit status; effect of marriage,**  
17 **entry into reciprocal beneficiary relationship, divorce,**  
18 **termination of reciprocal beneficiary relationship, or death.**

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



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

3 (2) The member or former employee is divorced from the  
4 beneficiary;

5 (3) The member or former employee is unmarried, and  
6 subsequently marries; or

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

9 Any of the above events shall operate as a complete revocation  
10 of such designation and, except as provided in sections 88-84(b)  
11 and 88-333(b), all benefits payable by reason of the death of  
12 the member or former employee shall be payable to the member's  
13 [~~legal representatives~~] or former employee's estate unless,  
14 after the death, divorce or marriage, or entry into or  
15 termination of reciprocal beneficiary relationship, the member  
16 or former employee makes other provision in a written  
17 designation duly executed and filed with the board of trustees.

18 (b) Subsection (a) shall not apply to active members who  
19 are former retirants who have returned to service. The  
20 beneficiaries of retirants who return to service may not be  
21 changed except to the extent provided under the retirement



1 allowance option selected by the former retirant when the former  
2 retirant first retired."

3 SECTION 18. Section 88-95, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§88-95 Withholding of dues and insurance premiums.** A  
6 retired member, if the retired member requests in writing, may  
7 have withheld from the retired member's pension, annuity, or  
8 retirement allowance, payments to the [~~Hawaii public employees~~  
9 ~~health~~] employer-union health benefits trust fund and employee  
10 organizations for dues and insurance premiums."

11 SECTION 19. Section 88-96, Hawaii Revised Statutes, is  
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) Any member who ceases to be an employee and who has  
14 fewer than five years of credited service, excluding unused sick  
15 leave, shall, upon application to the board of trustees, be paid  
16 all of the member's accumulated contributions and the member's  
17 membership shall thereupon terminate[+] and all credited service  
18 shall be forfeited; provided that any such member shall not be  
19 paid the member's accumulated contributions:

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



1           (2) If, at the time the application for return of  
2           accumulated contributions is received by the board of  
3           trustees, the member has become an employee again.  
4           ~~[The former employee's membership shall not continue after~~  
5           ~~the fourth full year following the calendar year in which the~~  
6           ~~individual's employment terminates. The system, as soon as~~  
7           ~~possible after termination of a former employee's membership,~~  
8           ~~shall return to the former employee the former employee's~~  
9           ~~accumulated contributions.]~~ Regular interest shall be credited  
10          to the former employee's account until the former employee's  
11          accumulated contributions are returned to the former  
12          employee[-]; provided that the former employee's membership  
13          shall not continue after the fourth full year following the  
14          calendar year in which the individual's employment terminates.  
15          Upon termination of the former employee's membership, the former  
16          employee's credited service shall be forfeited and, if the  
17          former employee's accumulated contributions are \$1,000 or less  
18          at the time of distribution, the system shall return the former  
19          employee's contributions to the former employee. If the former  
20          employee does not become an employee again and if the former  
21          employee's accumulated contributions have not been withdrawn by  
22          the former employee or previously returned by the system to the





1 former employee, the system shall return the former employee's  
2 accumulated contributions to the former employee as soon as  
3 possible after the former employee attains age sixty-two.

4 (b) Any member having five or more years of credited  
5 service who ceases to be an employee, upon application to the  
6 board of trustees, shall be paid all of the member's accumulated  
7 contributions[+] and thereupon the former employee's membership  
8 shall terminate and all credited service shall be forfeited;  
9 provided that any such member shall not be paid the member's  
10 accumulated contributions:

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

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

17 If the contributions are not withdrawn by the [~~member~~] former  
18 employee within four calendar years following the calendar year  
19 in which the [~~member's~~] former employee's employment terminates,  
20 the [~~member~~] former employee shall have established vested  
21 benefit status and shall be eligible for the service retirement  
22 benefit in effect at the time of the [~~member's~~] former



1 employee's retirement, payable in accordance with this chapter  
2 ~~[and the contributions shall not be withdrawn by the member~~  
3 ~~thereafter.]; provided that if the former employee withdraws the~~  
4 former employee's accumulated contributions, the former  
5 employee's vested benefit status shall terminate and all  
6 credited service shall be forfeited."

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

9 **"§88-98 Return to service of a retirant. (a)** Any  
10 retirant who returns to employment requiring active membership  
11 shall be reenrolled as an active member of the system in the  
12 same class from which the retirant originally retired and the  
13 retirant's retirement allowance shall be suspended.

14 (1) If the retirant returns to service before July 1,  
15 1998, and again retires, the retirant's retirement  
16 allowance shall consist of:

17 (A) For members with fewer than three years of  
18 credited service during the member's period of  
19 reemployment, the allowance to which the member  
20 was entitled under the ~~[mode of]~~ retirement  
21 allowance option selected when the member  
22 previously retired and which was suspended; plus,



1           for the period of service during the member's  
2           reemployment, the allowance to which the member  
3           is entitled for that service based on the [~~mode~~  
4           of] retirement allowance option initially  
5           selected and computed for the member's age,  
6           average final compensation, and other factors in  
7           accordance with the benefit formula in existence  
8           at the time of the member's latest retirement; or

9           (B) For members with three or more years of credited  
10          service during the member's period of  
11          reemployment, the allowance computed as if the  
12          member were retiring for the first time; provided  
13          that in no event shall the allowance be less than  
14          the amount determined in accordance with  
15          subparagraph (A);

16          (2) If the retirant returns to service after June 30,  
17          1998, and again retires, the retirant's retirement  
18          allowance shall be computed in accordance with  
19          paragraph (1)(A), regardless of the number of years of  
20          service in the reemployment period[~~; and~~].

21          [~~(3)~~] (b) Any retirant who received the special retirement  
22          incentive benefit under Act 253, Session Laws of Hawaii 2000,



1 and is reemployed by the State or a county in any capacity  
2 shall:

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

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

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

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

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

16 SECTION 21. Section 88-119, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§88-119 Investments.** Investments may be made in:

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



- 1 (A) Obligations secured by mortgages of nonprofit  
2 corporations desiring to build multirental units  
3 (ten units or more) subject to control of the  
4 government for occupancy by families displaced as  
5 a result of government action;
- 6 (B) Obligations secured by mortgages insured by the  
7 Federal Housing Administration;
- 8 (C) Obligations for the repayment of home loans made  
9 under the Servicemen's Readjustment Act of 1944  
10 or under Title II of the National Housing Act;
- 11 (D) Other obligations secured by first mortgages on  
12 unencumbered improved real estate owned in fee  
13 simple; provided that the amount of the  
14 obligation at the time investment is made therein  
15 shall not exceed eighty per cent of the value of  
16 the real estate and improvements mortgaged to  
17 secure it, and except that the amount of the  
18 obligation at the time investment is made therein  
19 may exceed eighty per cent but no more than  
20 ninety per cent of the value of the real estate  
21 and improvements mortgaged to secure it; provided  
22 further that the obligation is insured or



1           guaranteed against default or loss under a  
2           mortgage insurance policy issued by a casualty  
3           insurance company licensed to do business in the  
4           State. The coverage provided by the insurer  
5           shall be sufficient to reduce the system's  
6           exposure to not more than eighty per cent of the  
7           value of the real estate and improvements  
8           mortgaged to secure it. The insurance coverage  
9           shall remain in force until the principal amount  
10          of the obligation is reduced to eighty per cent  
11          of the market value of the real estate and  
12          improvements mortgaged to secure it, at which  
13          time the coverage shall be subject to  
14          cancellation solely at the option of the board of  
15          trustees. Real estate shall not be deemed to be  
16          encumbered within the meaning of this  
17          subparagraph by reason of the existence of any of  
18          the restrictions, charges, or claims described in  
19          section 431:6-308;

20          (E) Other obligations secured by first mortgages of  
21          leasehold interests in improved real estate;  
22          provided that:



1 (i) Each such leasehold interest at such time  
2 shall have a current term extending at least  
3 two years beyond the stated maturity of the  
4 obligation it secures; and

5 (ii) The amount of the obligation at the time  
6 investment is made therein shall not exceed  
7 eighty per cent of the value of the  
8 respective leasehold interest and  
9 improvements, and except that the amount of  
10 the obligation at the time investment is  
11 made therein may exceed eighty per cent but  
12 no more than ninety per cent of the value of  
13 the leasehold interest and improvements  
14 mortgaged to secure it;

15 provided further that the obligation is insured  
16 or 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 leasehold interest 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 leasehold interest 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 of  
8 trustees;

9 (F) Obligations for the repayment of home loans  
10 guaranteed by the department of Hawaiian home  
11 lands pursuant to section 214(b) of the Hawaiian  
12 Homes Commission Act, 1920; and

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





1           The board of trustees may retain such real estate,  
2           including leasehold interests therein, as it may  
3           acquire by foreclosure of mortgages or in enforcement  
4           of security, or as may be conveyed to it in  
5           satisfaction of debts previously contracted; provided  
6           that all such real estate, other than leasehold  
7           interests, shall be sold within five years after  
8           acquiring the same, subject to extension by the  
9           governor for additional periods not exceeding five  
10          years each, and that all such leasehold interests  
11          shall be sold within one year after acquiring the  
12          same, subject to extension by the governor for  
13          additional periods not exceeding one year each;

14          (2) Government obligations, etc. Obligations of any of  
15          the following classes:

16           (A) Obligations issued or guaranteed as to principal  
17           and interest by the United States or by any state  
18           thereof or by any municipal or political  
19           subdivision or school district of any of the  
20           foregoing; provided that principal of and  
21           interest on such obligations are payable in  
22           currency of the United States; or sovereign debt



- 1 instruments issued by agencies of, or guaranteed  
2 by foreign governments;
- 3 (B) Revenue bonds, whether or not permitted by any  
4 other provision hereof, of the State or any  
5 municipal or political subdivision thereof,  
6 including the board of water supply of the city  
7 and county of Honolulu, and street or improvement  
8 district bonds of any district or project in the  
9 State; and
- 10 (C) Obligations issued or guaranteed by any federal  
11 home loan bank including consolidated federal  
12 home loan bank obligations, the Home Owner's Loan  
13 Corporation, the Federal National Mortgage  
14 Association, or the Small Business  
15 Administration;
- 16 (3) Corporate obligations. Below investment grade or  
17 nonrated debt instruments, foreign or domestic, in  
18 accordance with investment guidelines adopted by the  
19 board of trustees;
- 20 (4) Preferred and common stocks. Shares of preferred or  
21 common stock of any corporation created or existing



1 under the laws of the United States or of any state or  
2 district thereof or of any country;

3 (5) Obligations eligible by law for purchase in the open  
4 market by federal reserve banks;

5 (6) Obligations issued or guaranteed by the International  
6 Bank for Reconstruction and Development, the Inter-  
7 American Development Bank, the Asian Development Bank,  
8 or the African Development Bank;

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

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

21 (9) Interests in real property. Interests in improved or  
22 productive real property in which, in the informed



1 opinion of the board of trustees, it is prudent to  
2 invest funds of the system. For purposes of this  
3 paragraph, "real property" includes any property  
4 treated as real property either by local law or for  
5 federal income tax purposes. Investments in improved  
6 or productive real property may be made directly or  
7 through pooled funds, including common or collective  
8 trust funds of banks and trust companies, group or  
9 unit trusts, limited partnerships, limited liability  
10 companies, investment trusts, title-holding  
11 corporations recognized under section 501(c) of the  
12 Internal Revenue Code of 1986, as amended, similar  
13 entities that would protect the system's interest, and  
14 other pooled funds invested on behalf of the system by  
15 investment managers retained by the system;

16 (10) Other securities and futures contracts. Securities  
17 and futures contracts in which in the informed opinion  
18 of the board of trustees it is prudent to invest funds  
19 of the system, including currency, interest rate,  
20 bond, and stock index futures contracts and options on  
21 such contracts to hedge against anticipated changes in  
22 currencies, interest rates, and bond and stock prices



1           that might otherwise have an adverse effect upon the  
2           value of the system's securities portfolios; covered  
3           put and call options on securities; and stock; whether  
4           or not the securities, stock, futures contracts, or  
5           options on futures are expressly authorized by or  
6           qualify under the foregoing paragraphs, and  
7           notwithstanding any limitation of any of the foregoing  
8           paragraphs (including paragraph (4)); and

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

21           SECTION 22. Section 88-132, Hawaii Revised Statutes, is  
22           amended to read as follows:



1           "§88-132 Service credit; payment of contributions. (a)  
2 Every active member of the system who leaves active service of  
3 the State or any county for the purpose of entering the military  
4 service of the United States in time of war or declared national  
5 or state emergency, or is called involuntarily to active duty  
6 after June 24, 1950, shall, so long as the member remains in  
7 military service, be allowed service credit in the system to the  
8 same extent as if the member were continuously in the active  
9 service of the State or county, as the case may be, in the  
10 position which the member held immediately prior to the member's  
11 entry into military service; provided that in no event shall the  
12 allowance of service credit exceed a period of four years.

13           (b) The State or county, as the case may be, in whose  
14 service the member was employed immediately prior to the  
15 member's induction into military service shall~~[, so long as the~~  
16 ~~member remains in military service,~~] pay all contributions to  
17 the pension accumulation fund and to the annuity savings fund,  
18 and any other payment to the system, which would otherwise be  
19 payable to the system by the State, the county, or the member if  
20 the member ~~[were]~~ had remained continuously in the active  
21 service of the State or county, as the case may be, ~~[so long as~~  
22 ~~the member remains continuously in]~~ during the period of the



1 member's military service~~[, but in no event shall]~~; provided  
2 that:

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

7 (2) The member returns to state or county government  
8 service within ninety days of release from active duty  
9 or dies in the performance of the member's military  
10 service; and

11 (3) The member's release from active duty was under  
12 honorable conditions.

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

16 (1) The member returns to state or county government  
17 service; or

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

21 (d) If the State or county, as the case may be, fails to  
22 pay the contributions within the time specified in subsection



1 (c), the State or county, as the case may be, shall also pay to  
2 the system interest at the rate of four and one-half per cent  
3 per annum from the date the member returned to state or county  
4 government service or the date of the member's death in the  
5 performance of the member's military duty until payment is made.  
6 Interest paid on the portion of the contributions that would  
7 have been payable by the member shall be included in the  
8 member's accumulated contributions."

9 SECTION 23. Section 88-137, Hawaii Revised Statutes, is  
10 amended to read as follows:

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

17 SECTION 24. Section 88-138, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§88-138 Accidental death benefit.** [~~The estate, or~~  
20 designated beneficiary of a] If a service member [~~who~~] dies by  
21 accident, act of war, or other cause, occurring while the  
22 service member is not in the active service of the State or any





1 county, [~~shall not be entitled to~~] the death shall not be an  
2 accidental death [~~benefit provided by~~] and shall not be eligible  
3 for accidental death benefits under sections 88-85, 88-286(c),  
4 and 88-339; however, the [~~estate or the beneficiary shall be~~  
5 ~~entitled to the~~] ordinary death benefit shall be payable as  
6 provided in section 88-137."

7 SECTION 25. Section 88-140, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§88-140 Duration of service member's status.** [~~A service~~  
10 ~~member shall continue to be entitled to the benefits of the~~  
11 ~~Servicemen's Act until the expiration of ninety days after the~~  
12 ~~termination of the service member's service in the armed forces~~  
13 ~~unless the service member shall within the ninety day period~~  
14 ~~have reentered the service of the State or any county, in a~~  
15 ~~position which constitutes the service member an employee as~~  
16 ~~defined by section 88-21, in which latter event the service~~  
17 ~~member's status thenceforth shall be the same as that of any~~  
18 ~~other regular member of the system in the service without any~~  
19 ~~loss of the service credit preserved and allowed to the service~~  
20 ~~member under the Servicemen's Act, or unless the service member~~  
21 ~~shall have resigned before the expiration of the ninety day~~  
22 ~~period and waived the service member's right to such~~



1 ~~reemployment. In the event the service member fails to reenter~~  
2 ~~the service of the State or any county within the ninety day~~  
3 ~~period, and shall not have resigned from the system and waived~~  
4 ~~the service member's right to reemployment, the service member's~~  
5 ~~status thereafter shall be the same as that of a regular member~~  
6 ~~who terminated the regular member's employment as such an~~  
7 ~~employee and such termination shall be deemed to have occurred~~  
8 ~~on the ninetieth day after the termination of the service~~  
9 ~~member's service in the armed forces.~~

10 ~~A service member who voluntarily extends the service~~  
11 ~~member's period of service in the armed forces ninety or more~~  
12 ~~days beyond the expiration date of the service member's initial~~  
13 ~~enlistment or the period for which the service member was~~  
14 ~~inducted or the period for which the service member was ordered~~  
15 ~~to active duty shall be deemed to be on the same status as that~~  
16 ~~of a regular member who terminates the regular member's~~  
17 ~~employment as an employee, and the termination shall be deemed~~  
18 ~~to have occurred on the ninetieth day following the expiration~~  
19 ~~date of the service member's enlistment or the period for which~~  
20 ~~the service member was inducted or the period for which the~~  
21 ~~service member was ordered to active duty.] (a) An active~~  
22 ~~member of the system who leaves active service of the State or~~



1 any county for the purpose of entering the military service of  
2 the United States in time of war or declared national or state  
3 emergency, or is called involuntarily to active duty after June  
4 24, 1950, shall be entitled to the benefits of sections 88-134,  
5 88-135, and 88-137:

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

9 (2) For an additional period ending on the earlier of (i)  
10 the ninety-first day after the termination of the  
11 member's eligibility for benefits pursuant to  
12 paragraph (1), or (ii) the day the member returns to  
13 the active service of the State or a county.

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

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

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



1 SECTION 26. Section 88-251, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§88-251 Applicability.** The following provisions of part  
4 II shall apply to this part:

5 (1) Subpart A, except the definitions provided in section  
6 88-21, unless expressly adopted in section 88-261;

7 (2) Subpart B, except sections 88-45, 88-45.5, 88-46, 88-  
8 48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;

9 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,  
10 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83, 88-  
11 84 [~~to~~], 88-85, 88-87 [~~to~~], 88-88, 88-89, 88-96, 88-  
12 97, and 88-98;

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

14 (5) Subpart E."

15 SECTION 27. Section 88-261, Hawaii Revised Statutes, is  
16 amended by repealing the definitions of "accidental death" and  
17 of "ordinary death".

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



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

3       SECTION 28. Section 88-271, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

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

6       (1) Is in service on June 30, 1984, or who returns to  
7       service after June 30, 1984, but before July 1, 2006,  
8       and has vested benefit status as provided in section  
9       88-96(b); and

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

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



1 SECTION 29. Section 88-273, Hawaii Revised Statutes, is  
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) Any retirant who retired under the provisions of part  
4 VII of this chapter and returns to service requiring membership  
5 in the system as a class C member shall be reenrolled as an  
6 active member, and the retirant's retirement allowance shall be  
7 suspended. At such time as the member again retires, the  
8 retirement allowance shall be the allowance to which the member  
9 was entitled under the [~~mode of~~] retirement allowance option  
10 selected when the member previously retired and which was  
11 suspended; plus, for the period of service during the member's  
12 reemployment, the allowance to which the member is entitled for  
13 that service based on the [~~mode of~~] retirement allowance option  
14 initially selected and computed for the member's age, average  
15 final compensation, and other factors in accordance with the  
16 benefit formula of a class C member in existence at the time of  
17 the member's final retirement. If the member's designation of  
18 beneficiary was irrevocable upon the member's initial  
19 retirement, the member may not change the member's designated  
20 beneficiary when the member returns to service or when the  
21 member again retires.



1 (d) Any retirant who retired under part VII and returns to  
2 service requiring membership in the system as a class A or class  
3 B member shall be reenrolled as an active member, and the  
4 retirant's retirement allowance shall be suspended. At such  
5 time as the member again retires, the retirement allowance shall  
6 be the allowance to which the member was entitled under the  
7 [~~mode of~~] retirement allowance option selected when the member  
8 previously retired and which was suspended; plus, for the period  
9 of service during the member's reemployment, the allowance to  
10 which the member is entitled for that service based on the [~~mode~~  
11 ~~of~~] retirement allowance option initially selected and computed  
12 for the member's age, average final compensation, and other  
13 factors in accordance with the benefit formula of a class A or  
14 class B member in existence at the time of the member's final  
15 retirement. If the member's designation of beneficiary was  
16 irrevocable upon the member's initial retirement, the member may  
17 not change the member designated beneficiary when the member  
18 returns to service or when the member again retires."

19 SECTION 30. Section 88-283, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "**§88-283** [~~Retirement~~] Election of retirement allowance  
22 [~~options.~~] option. (a) Upon retirement, any member may elect



1 to receive the maximum retirement allowance to which the member  
2 is entitled, computed in accordance with section 88-282, 88-284,  
3 or 88-285, and, if the member elects to receive the maximum  
4 retirement allowance, the member's beneficiary shall not be  
5 entitled to any benefit upon the member's death, except as  
6 provided in subsection (g). In lieu of the maximum retirement  
7 allowance [~~described in sections 88-282, 88-284, and 88-285~~], a  
8 member may elect to receive the member's retirement allowance  
9 under one of the options described below, which shall be  
10 actuarially equivalent to the maximum retirement allowance:

11 (1) Option A: A reduced allowance payable to the member,  
12 then upon the member's death, one-half of the  
13 allowance, including fifty per cent of all cumulative  
14 post retirement allowances, to the member's  
15 beneficiary designated by the member at the time of  
16 retirement, for the life of the beneficiary; provided  
17 that for members retiring after November 30, 2004, in  
18 the event that the retirant's beneficiary dies at any  
19 time after the retirant retired, but before the death  
20 of the retirant, the retirant, upon the death of the  
21 retirant's beneficiary, shall receive a retirement  
22 allowance, including cumulative post retirement





1 allowances, calculated as if the retirant had selected  
2 the maximum retirement allowance to which the retirant  
3 is entitled;

4 (2) Option B: A reduced allowance payable to the member,  
5 then upon the member's death, the same allowance,  
6 including cumulative post retirement allowances, paid  
7 to the member's beneficiary designated by the member  
8 at the time of retirement, for the life of the  
9 beneficiary; provided that for members retiring after  
10 November 30, 2004, in the event that the retirant's  
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  
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; or

19 (3) Option C: A reduced allowance payable to the member,  
20 and if the member dies within ten years of retirement,  
21 the same allowance, including cumulative post



1 retirement allowances, paid to the member's  
2 beneficiary for the balance of the ten-year period.  
3 Only one beneficiary may be designated under options A and B.  
4 The beneficiary designated under option A or B shall be a  
5 natural person, and benefits under option A or B may only be  
6 paid to a natural person. To receive benefits, the beneficiary  
7 must have been designated by the member in the form and manner  
8 prescribed by the board.

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

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

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

17 (c) No election under this section shall take effect  
18 unless:

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



- 1 (A) Specifies the retirement date, the benefit option  
2 selected, and the beneficiary designated by the  
3 member;
- 4 (B) Provides information indicating the effect of the  
5 election; and
- 6 (C) Is determined adequate by rules established by  
7 the board pursuant to chapter 91; or
- 8 (2) The member selects option A or option B and designates  
9 the spouse or reciprocal beneficiary as the  
10 beneficiary; or
- 11 (3) It is established to the satisfaction of the board  
12 that the notice required under paragraph (1) cannot be  
13 provided because:
- 14 (A) There is no spouse or reciprocal beneficiary;
- 15 (B) The spouse or reciprocal beneficiary cannot be  
16 located;
- 17 (C) The member has failed to notify the system that  
18 the member has a spouse or reciprocal beneficiary  
19 or has failed to provide the system with the name  
20 and address of the member's spouse or reciprocal  
21 beneficiary; or



1 (D) Of other reasons, as established by rules of the  
2 board pursuant to chapter 91. Any notice  
3 provided to a spouse or reciprocal beneficiary,  
4 or determination that the notification of a  
5 spouse or reciprocal beneficiary cannot be  
6 provided, shall be effective only with respect to  
7 that spouse or reciprocal beneficiary. The  
8 system shall rely upon the representations made  
9 by a member as to whether the member has a spouse  
10 or reciprocal beneficiary and the name and  
11 address of the member's spouse or reciprocal  
12 beneficiary.

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

16 (1) The terms and conditions of the various benefit  
17 options;

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

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



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

4 (f) In the event of the death of a member after the date  
5 of the filing of the member's written application to retire, but  
6 prior to the retirement date designated by the member, and, if  
7 the member was eligible to retire on the date of the member's  
8 death, the member's designated beneficiary[~~, if the member was~~  
9 ~~eligible to retire on the date of the member's death,~~] may elect  
10 to receive either:

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

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

16 The effective date of the member's retirement shall be [a] the  
17 first day of a month, except for the month of December when the  
18 effective date of retirement may be on the first or last day of  
19 the month, and shall be no earlier than the later of thirty days  
20 from the date the member's retirement application was filed or  
21 the day following the member's date of death. The election may  
22 not be made if, at the time of the member's death, there are



1 individuals who are eligible to receive death benefits under  
2 section 88-286(c) who have made a claim for the benefits;  
3 provided that, if the designated beneficiary is an individual  
4 eligible to receive benefits under section 88-286(c), the  
5 designated beneficiary may receive benefits pursuant to an  
6 election under this section pending disposition of the claim for  
7 benefits under section 88-286(c). No death benefits will be  
8 payable under section 88-286(c) while benefits are paid pursuant  
9 to an election made under this section.

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

13 (1) The death benefit under the retirement option selected  
14 by the retirant; or

15 (2) The death benefit under option B; provided that the  
16 difference between the benefit that the retirant  
17 received and the benefit that would have been payable  
18 to the retirant had the retirant elected to receive a  
19 retirement allowance under option B shall be returned  
20 to the system.

21 (h) The increase in the retirant's benefit under options A  
22 and B upon the death of the retirant's designated beneficiary



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

9 SECTION 31. 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 of trustees pursuant to section 88-85.5, the death  
5 benefit shall be effective on the first day of [a] the month  
6 following the member's death, except for the month of December  
7 when retirement on the first or last day of the month shall be  
8 allowed, as 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 32. 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, 88-  
16          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 33. Section 88-321, Hawaii Revised Statutes, is  
20          amended by amending subsection (a) to read as follows:

21          "(a) Any member, except for members described in  
22          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 after February 28,  
13 2006, within thirty days of entering or returning to service.  
14 The election shall be irrevocable.

15 SECTION 34. Section 88-321, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

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

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



1           (2) A class A or a class B member, who returns to service  
2           but does not have vested benefit status as provided in  
3           section 88-96(b) and who does not return to service as  
4           a class A or class B member, shall become a class H  
5           member upon return to service[~~. The system shall~~  
6           ~~return to the member the member's accumulated~~  
7           ~~contributions~~] and the member's credited service as a  
8           class A or B member shall be converted to class C  
9           credited service. The system shall return to the  
10          member the member's accumulated contributions if the  
11          member's accumulated contributions are \$1,000 or less  
12          at the time of distribution. If the member's  
13          accumulated contributions for the class A or B  
14          credited service that was converted to class C  
15          credited service have not been previously returned by  
16          the system to the member, such contributions, together  
17          with interest thereon, shall be returned to the member  
18          upon written application by the member or as soon as  
19          possible after the member attains age sixty-two."

20           SECTION 35. Section 88-322, Hawaii Revised Statutes, is  
21          amended by amending subsections (a) and (b) to read as follows:



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

- 9           (1) To forfeited credit for previous service [~~not~~] that a  
10           member is eligible to have restored as of June 30,  
11           2006; [~~or~~] and  
12           (2) To membership service credit that a member is eligible  
13           to claim under section 88-272(4) to (6) as of June 30,  
14           2006[~~, which the member has failed to claim by June~~  
15           ~~30, 2006.~~];  
16           provided that the member shall claim the forfeited service  
17           credit and the membership service credit by the date established  
18           by the board at a meeting held pursuant to chapter 92.

19           (b) All class A and class B credited service of class A or  
20 class B members who make the election to become class H members  
21 pursuant to section 88-321(a) shall be converted to class H  
22 credited service. The cost of the conversion of class A or



1 class B credited service shall be the member's accumulated  
2 contributions as of the date of conversion. Verified membership  
3 service credit paid for pursuant to section 88-59 under an  
4 irrevocable payroll authorization entered into prior to July 1,  
5 2006, shall be credited as class H credited service. Class A and  
6 class B members who are in service on June 30, 2006, and make  
7 the election to become class H members pursuant to section 88-  
8 321(a) shall have the option to convert some or all of their  
9 class C credited service, as of June 30, 2006, to class H  
10 credited service by paying, in the manner provided in subsection  
11 (d), the full actuarial cost of the conversion as of June 30,  
12 2006. The option to convert class C credited service to class H  
13 credited service shall [~~not~~] also apply:

- 14 (1) To forfeited credit for previous service [~~not~~] that a  
15 member is eligible to have restored as of June 30,  
16 2006; [~~or~~] and  
17 (2) To membership service credit that a member is eligible  
18 to claim under section 88-272(4) to (6) as of June 30,  
19 2006[~~, which the member has failed to claim by June~~  
20 ~~30, 2006.~~];





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

4 SECTION 36. Section 88-324, Hawaii Revised Statutes, is  
5 amended by amending subsections (c), (d), and (e) to read as  
6 follows:

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

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



1 payroll payments are made. The member may elect to  
2 have:

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

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

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

21 The deductions from compensation or lump sum payment shall be  
22 paid to the system and shall be credited to the member's



1 individual account and become part of the member's accumulated  
2 contributions.

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

7 (d) Verified prior service and verified membership service  
8 for which a former class C member in service on June 30, 2006,  
9 was eligible as of June 30, 2006, but failed to claim by [~~June~~  
10 ~~30, 2006,~~] the date established by the board pursuant to section  
11 88-322(a), shall be credited at no cost as class C credited  
12 service.

13 (e) Except as provided in subsection (f)[+] or in section  
14 88-322:

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

17 (2) Class A, class B, or class C credited service shall be  
18 restored as class C credited service at the rate of  
19 one month of service credit for each month of service  
20 rendered following the later of conversion to class H  
21 membership or the return to membership as a class H  
22 member.



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

2 SECTION 37. Section 88-333, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "[~~§~~§88-333[~~§~~] [~~Retirement~~] Election of retirement  
5 allowance [~~options.~~] option. (a) Upon retirement:

6 (1) Any class H member may elect to receive the maximum  
7 retirement allowance to which the member is entitled,  
8 computed in accordance with the provisions described  
9 under section 88-332, 88-335, or 88-337, and if the  
10 member elects to receive the maximum retirement  
11 allowance, in the event of the member's death, there  
12 shall be paid to the member's beneficiary, or  
13 otherwise to the member's estate, the difference  
14 between the balance of the member's accumulated  
15 contributions at the time of the member's retirement  
16 and the retirement allowance paid or payable to the  
17 member prior to death; or

18 (2) In lieu of the maximum allowance to which the member  
19 is entitled, computed in accordance with the  
20 provisions described under section 88-332, 88-335, or  
21 88-337, the member may elect to receive the member's  
22 retirement allowance under any one of the [~~optional~~



1           ~~plans~~ options described in section 88-83, which shall  
2           be actuarially equivalent to the maximum allowance.

3           To receive benefits, the beneficiary shall have been  
4           designated by the member in the form and manner prescribed by  
5           the board.

6           (b) If a class H member dies after the date of the filing  
7           of the member's written application to retire but prior to the  
8           retirement date designated by the member, and, if the member was  
9           eligible to retire on the date of the member's death, the  
10          member's designated beneficiary, or otherwise the personal  
11          representative of the member's estate, [~~if the member was~~  
12          ~~eligible to retire on the date of the member's death,~~] may elect  
13          to receive either the death benefit under section 88-338 or the  
14          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.



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

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

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

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

13 (i) Option 2 or 3 described in section 88-83;

14 (ii) An option that includes option 2 or 3 in  
15 combination with some other form of benefit  
16 payment; or

17 (iii) Any other option for which the actuarial  
18 equivalent of the option to the maximum  
19 retirement allowance is determined at the time of  
20 the member's retirement in whole or in part on  
21 the age of the member's beneficiary.



- 1           (e) No election under this section shall take effect  
2 unless:
- 3           (1) The spouse or reciprocal beneficiary of the member is  
4 furnished written notification that:
- 5               (A) Specifies the retirement date, the benefit option  
6               selected, and the beneficiary designated by the  
7               member;
- 8               (B) Provides information indicating the effect of the  
9               election; and
- 10            (C) Is determined adequate by rules adopted by the  
11            board in accordance with chapter 91;
- 12           (2) The member selects option 2 or option 3 under section  
13            88-83 and designates the spouse or reciprocal  
14            beneficiary as the beneficiary; or
- 15           (3) It is established to the satisfaction of the board  
16            that the notice required under paragraph (1) cannot be  
17            provided because:
- 18               (A) There is no spouse or reciprocal beneficiary;
- 19               (B) The spouse or reciprocal beneficiary cannot be  
20               located;
- 21               (C) The member has failed to notify the system that  
22               the member has a spouse or reciprocal



1 beneficiary, or has failed to provide the system  
2 with the name and address of the member's spouse  
3 or reciprocal beneficiary; or

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

6 Any notice provided to a spouse or reciprocal beneficiary,  
7 or determination that the notification of a spouse or reciprocal  
8 beneficiary cannot be provided shall be effective only with  
9 respect to that spouse or reciprocal beneficiary. The system  
10 shall rely upon the representations made by a member as to  
11 whether the member has a spouse or reciprocal beneficiary and  
12 the name and address of the member's spouse or reciprocal  
13 beneficiary. The system shall not be liable for any false  
14 statements made by the member.

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

18 (1) The terms and conditions of the various benefit  
19 options;

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





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

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

6 SECTION 38. Section 88-338, Hawaii Revised Statutes, is  
7 amended to read as follows:

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

14 (1) If the member had less than five years of credited  
15 service at the time of death, the member's accumulated  
16 contributions shall be paid to the member's designated  
17 beneficiary;

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



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

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

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 paragraph (1) or (2) of  
11 subsection (a); or

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

17 (c) For the purposes of this section, a year round school  
18 employee shall be considered in service during the July and  
19 August preceding a transfer to a traditional school schedule if  
20 the employee was in service for the entire prior school year and  
21 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 39. Section 88-339, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6        "(a) [~~Upon the receipt by the board of trustees, of proper~~  
7 ~~proof of a class H member's death,]~~ In the case of an accidental  
8 death as determined by the board of trustees pursuant to section  
9 88-85.5, there shall be paid to the member's designated  
10 beneficiary or to the member's estate the amount of the member's  
11 accumulated contributions and [~~if, upon the receipt of evidence~~  
12 ~~or proof that the death was the natural and proximate result of~~  
13 ~~an 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 88-338[~~, effective on the~~  
20 ~~first day of a month following the member's death, except for~~  
21 ~~the month of December when benefits shall be effective on the~~



1 ~~first or last day of the month,~~] a pension of one-half of the  
2 average final compensation of the member:

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

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

18 (3) If there is no surviving spouse or reciprocal  
19 beneficiary [~~or~~] and no child under the age of  
20 eighteen years surviving the deceased member, then to  
21 the deceased member's dependent father or dependent  
22 mother, as the deceased member shall have nominated by



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

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

10           SECTION 40. Section 88-341, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12           "(a) Any class H member who ceases to be an employee and  
13 who has fewer than five years of credited service, excluding  
14 unused sick leave, shall, upon application to the board, be paid  
15 all of the former employee's accumulated contributions and the  
16 former employee's membership shall thereupon terminate and all  
17 credited service shall be forfeited; provided that any such  
18 individual shall not be paid the individual's accumulated  
19 contributions if either:

20           (1) The individual becomes an employee again within  
21           fifteen calendar days from the date the individual  
22           ceased to be an employee; or



1           (2) At the time the application for return of accumulated  
2           contributions is received by the board the individual  
3           has become an employee again.

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

14          SECTION 41. Section 88-344, Hawaii Revised Statutes, is  
15          amended to read as follows:

16          "~~§~~88-344~~§~~ **Return to service of a retirant.** (a) Any  
17          retirant who retired under the provisions of part VIII of this  
18          chapter and returns to service requiring membership in the  
19          system as a class H member shall be reenrolled as an active  
20          member, and the retirant's retirement allowance shall be  
21          suspended. At such time as the member again retires, the  
22          retirement allowance shall be the sum of:



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

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

13 (b) Any retirant who retired under part VIII and returns  
14 to service requiring membership in the system as a class A or  
15 class B member shall be reenrolled as an active member, and the  
16 retirant's retirement allowance shall be suspended. At such  
17 time as the member again retires, the retirement allowance shall  
18 be the sum of:

19 (1) The allowance to which the member was entitled under  
20 the [~~mode-of~~] retirement allowance option selected  
21 when the member previously retired and which was  
22 suspended; and





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

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

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

19           (d) If a retirant's designation of beneficiary was  
20           irrevocable upon the retirant's initial retirement, the retirant  
21           may not change the retirant's designated beneficiary when the



1 retirant returns to service or when the former retirant again  
2 retires.

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

5 SECTION 42. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 43. This Act shall take effect on July 1, 2006;  
8 provided that section 26 shall take effect retroactive to July  
9 1, 2003, sections 32 and 40 shall take effect retroactive to  
10 July 1, 2004, section 33 shall take effect retroactive to  
11 January 1, 2006, and sections 35 and 36 shall take effect on  
12 June 30, 2006.

13

INTRODUCED BY: \_\_\_\_\_

BY REQUEST

