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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 88-75, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§88-75 Ordinary disability retirement. (a) Upon  
4 application of a member in service or on leave without pay, or  
5 the person appointed by the family court as guardian of an  
6 incapacitated member, any member who has ten or more years of  
7 credited service shall be retired by the board [~~of trustees~~] on  
8 an ordinary disability retirement allowance if the medical  
9 board, after a medical examination of the member, certifies  
10 that:

11 (1) The member is mentally or physically incapacitated for  
12 the further performance of duty at the time of  
13 application;

14 (2) The incapacity is likely to be permanent; and

15 (3) The member should be retired.

16 (b) Notwithstanding the requirement of subsection (a) (1),  
17 if a member applying for ordinary disability retirement suffers  
18 from the symptoms of an incurable debilitating disease that has



1 not progressed to the extent that the member's physical or  
2 mental condition has deteriorated so as to require the member to  
3 immediately retire, the medical board shall render a decision on  
4 the member's eligibility for retirement within thirty days of  
5 the medical board's receipt of a written statement, from the  
6 member's primary care physician or a physician who specializes  
7 in the diagnosis of the incurable debilitating disease,  
8 certifying that the member suffers from the symptoms of an  
9 incurable debilitating disease. Within thirty days of the  
10 medical board's decision on whether a member's medical condition  
11 qualifies as an incurable debilitating disease, the system shall  
12 render a decision on the member's retirement application and  
13 notify the member of the system's decision.

14 (c) No time limit for retirement from the system shall be  
15 imposed upon a member who qualifies for ordinary disability  
16 retirement under subsection (b), and the member may continue in  
17 the member's public sector employment until such time as the  
18 member elects to terminate service and retire.

19 For the purposes of this section, "incurable debilitating  
20 disease" means a disease that:

21 (1) Is contracted by a member and the diagnosis of the  
22 disease is certified in writing by the member's



1           primary care physician or a physician who specializes  
2           in the diagnosis of the disease;

3           (2) Causes the member to lose the ability to adequately  
4           perform the duties described in the member's job  
5           description; and

6           (3) Results in either the eventual death or total  
7           incapacity of the member.

8           Nothing in this subsection shall be construed to absolve a  
9           member from complying with the retirement application process  
10           requirements of this section.

11           (d) Upon approval by the board, the member shall be  
12 eligible to receive an ordinary disability retirement benefit no  
13 earlier than thirty days from the date the application was filed  
14 or the date the member terminated service, whichever is later.  
15 Retirement shall become effective on the first day of a month,  
16 except for the month of December when retirement on the first or  
17 last day of the month shall be allowed."

18           SECTION 2. Section 88-284, Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "**§88-284 Ordinary disability retirement.** (a) Upon  
21 application of a member in service or on leave without pay, or  
22 the person appointed by the family court as guardian of an



1 incapacitated member, any member who has ten or more years of  
2 credited service shall be retired by the board [~~of trustees~~] on  
3 an ordinary disability retirement allowance if the medical  
4 board, after a medical examination of the member, certifies  
5 that:

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

11 (b) Notwithstanding the requirement of subsection (a)(1),  
12 if a member applying for ordinary disability retirement suffers  
13 from an incurable debilitating disease that has not progressed  
14 to the extent that the member's physical or mental condition has  
15 deteriorated so as to require the member to immediately retire,  
16 the medical board shall render a decision on the member's  
17 eligibility for retirement within thirty days of the medical  
18 board's receipt of a written statement, from the member's  
19 primary care physician or a physician who specializes in the  
20 diagnosis of the incurable debilitating disease, certifying that  
21 the member suffers from an incurable debilitating disease.  
22 Within thirty days of the medical board's decision on whether a



1 member's medical condition qualifies as an incurable  
2 debilitating disease, the system shall render a decision on the  
3 member's retirement application and notify the member of the  
4 system's decision.

5 (c) No time limit for retirement from the system shall be  
6 imposed upon a member who qualifies for ordinary disability  
7 retirement under subsection (b), and the member may continue in  
8 the member's public sector employment until such time as the  
9 member elects to terminate service and retire.

10 For the purposes of this section, "incurable debilitating  
11 disease" means a disease that:

12 (1) Is contracted by a member and the diagnosis of the  
13 disease is certified in writing by the member's  
14 primary care physician or a physician who specializes  
15 in the diagnosis of the disease;

16 (2) Causes the member to lose the ability to adequately  
17 perform the duties described in the member's job  
18 description; and

19 (3) Results in either the eventual death or total  
20 incapacity of the member.



1        Nothing in this subsection shall be construed to absolve a  
2 member from complying with the retirement application process  
3 requirements of this section.

4        [~~(b)~~] (d) Upon approval by the board, the member shall  
5 receive an ordinary disability retirement benefit no earlier  
6 than thirty days from the date the application was filed or the  
7 date the member terminated service, whichever is later.  
8 Retirement shall become effective on the first day of a month,  
9 except for the month of December when retirement on the first or  
10 last day of the month shall be allowed.

11        [~~(e)~~] (e) A member who is determined to be permanently  
12 incapacitated for the further performance of duty pursuant to  
13 subsection (a) and eligible to receive an ordinary disability  
14 retirement allowance shall receive a maximum retirement  
15 allowance of one and one-fourth per cent of the average final  
16 compensation multiplied by the number of years of credited  
17 service unreduced for age."

18        SECTION 3. Section 88-334, Hawaii Revised Statutes, is  
19 amended to read as follows:

20        "~~[§88-334]~~ **Ordinary disability retirement.** (a) Upon  
21 application of a class H member in service or on leave without  
22 pay, or the person appointed by the family court as guardian of

1 an incapacitated member, any member who has ten or more years of  
2 credited service shall be retired by the board on an ordinary  
3 disability retirement allowance if the medical board, after a  
4 medical examination of the member, certifies that:

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

10 (b) Notwithstanding the requirement of subsection (a) (1),  
11 if a member applying for ordinary disability retirement suffers  
12 from an incurable debilitating disease that has not progressed  
13 to the extent that the member's physical or mental condition has  
14 deteriorated so as to require the member to immediately retire,  
15 the medical board shall render a decision on the member's  
16 eligibility for retirement within thirty days of the medical  
17 board's receipt of a written statement, from the member's  
18 primary care physician or a physician who specializes in the  
19 diagnosis of the incurable debilitating disease, certifying that  
20 the member suffers from an incurable debilitating disease.  
21 Within thirty days of the medical board's decision on whether a  
22 member's medical condition qualifies as an incurable

1 debilitating disease, the system shall render a decision on the  
2 member's retirement application and notify the member of the  
3 system's decision.

4 (c) No time limit for retirement from the system shall be  
5 imposed upon a member who qualifies for ordinary disability  
6 retirement under subsection (b), and the member may continue in  
7 the member's public sector employment until such time as the  
8 member elects to terminate service and retire.

9 For the purposes of this section, "incurable debilitating  
10 disease" means a disease that:

11 (1) Is contracted by a member and the diagnosis of the  
12 disease is certified in writing by the member's  
13 primary care physician or a physician who specializes  
14 in the diagnosis of the disease;

15 (2) Causes the member to lose the ability to adequately  
16 perform the duties described in the member's job  
17 description; and

18 (3) Results in either the eventual death or total  
19 incapacity of the member.

20 Nothing in this subsection shall be construed to absolve a  
21 member from complying with the retirement application process  
22 requirements of this section.





1           ~~(b)~~ (d) Upon approval by the board, the member shall  
2 receive an ordinary disability retirement benefit no earlier  
3 than thirty days from the date the application was filed or the  
4 date the member terminated service, whichever is later.  
5 Retirement shall become effective on the first day of a month,  
6 except for the month of December when retirement on the first or  
7 last day of the month shall be allowed."

8           SECTION 4. This Act shall apply to any application for  
9 ordinary disability retirement filed after its effective date.

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

12           SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

ERS; Ordinary Disability Retirement

**Description:**

Enables a member of the ERS who suffers from an incurable debilitating disease to qualify for ordinary disability retirement and to continue working until they are unable to continue working. (SD1)

