

JAN 25 2006

S.B. NO. 2273

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

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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
23 the State or by any county or independent public board or
24 commission, other than benefits payable to members of the

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

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

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

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

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

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1 "Child or children":

2 (1) A natural child of a member;

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

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

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

7 (ii) For whom the member has become the child's legal
8 guardian or has been awarded legal and physical
9 custody of the child pursuant to a valid court
10 order.

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

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

16 "Beneficiary": the recipient of any benefit from the
17 system or, as context may indicate, the [~~natural~~] person or
18 persons designated by a member to receive the benefits payable
19 in the event of the member's death.

20 "Retirement allowance": the benefit payable for life as
21 originally computed and paid a member at the point of the
22 member's retirement in accordance with the [~~mode-of~~] retirement
23 allowance option selected by the member, exclusive of any bonus
24 or bonuses."

1 SECTION 5. Section 88-31, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§88-31 **Medical board.** The board of trustees shall
4 designate a medical board to be composed of three physicians not
5 eligible to participate in the system. If required, other
6 physicians may be employed to report on special cases. The
7 medical board shall arrange for and pass upon all medical
8 examinations required under this part and [~~part~~] parts VII and
9 VIII of this chapter, shall investigate all essential statements
10 and certificates by or on behalf of a member in connection with
11 application for disability retirement, and shall report in
12 writing to the board its conclusions and recommendations upon
13 all the matters referred to it."

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

16 "(a) Notwithstanding any other law to the contrary, any
17 judge who retires under section 88-61(c) and continues in
18 service as a judge shall be allowed membership in the system and
19 entitlement to membership service credit for any eligible class
20 A service; provided that such membership service shall be
21 credited in accordance with section 88-59; and provided further
22 that when the judge retires, it shall be as if it were for the
23 first time, and sections [~~88-73(1),~~] 88-73(a), 88-74(3), and 88-
24 76 shall be used to determine the retirement allowance."

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

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

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

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

1 SECTION 9. Section 88-62, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

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

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

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

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

1 the day the payment is made and the amount the [~~retiree~~]
2 retirant was paid including any refund of member contributions.

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

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

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

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

1 The minimum retirement allowance payable under this section
2 shall be thirty per cent of the member's average final
3 compensation."

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

6 "(b) Notwithstanding subsection (a), any member who
7 accrued a benefit prior to July 1, 2004, based on annual
8 compensation in excess of the limit set forth in section
9 401(a)(17) of the Internal Revenue Code of 1986, as amended,
10 shall receive a nontax-qualified benefit equal to the difference
11 between:

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

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

1 the earliest age the member could retire with an
2 unreduced benefit, or, upon the member's termination
3 of service, if earlier."

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

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

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

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

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

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

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

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

23 Option 4: The member may elect to receive a lesser
24 retirement allowance during the member's lifetime and provide

1 some other benefit to the member's beneficiary in accordance
2 with the member's own specification; provided that this election
3 shall be certified by the actuary to be the actuarial equivalent
4 of the member's retirement allowance and shall be approved by
5 the board.

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

15 To receive benefits, the beneficiary must have been
16 designated by the member in the form and manner prescribed by
17 the board.

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

21 (b) In the event of the death of a member after the date
22 of the filing of the member's written application to retire, but
23 prior to the retirement date designated by the member, and, if
24 the member was eligible to retire on the date of the member's

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

20 (c) No election under this section shall take effect
21 unless:

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

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- 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 2 or option 3 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
- 22 (D) Of other reasons, as established by rules of the
23 board pursuant to chapter 91. Any notice
24 provided to a spouse or reciprocal beneficiary,

1 or determination that the notification of a
2 spouse or reciprocal beneficiary cannot be
3 provided, shall be effective only with respect to
4 that spouse or reciprocal beneficiary. The
5 system will rely upon the representations made by
6 a member as to whether the member has a spouse or
7 reciprocal beneficiary and the name and address
8 of the member's spouse or reciprocal beneficiary.

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

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

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

22 (f) In the event of the death of the retirant within one
23 year after the date of retirement, the retirant's designated
24 beneficiary may elect to receive either the death benefit under

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

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

15 (h) Upon a member's retirement:

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

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

21 (i) Option 2 or 3;

22 (ii) An option that includes option 2 or 3 in
23 combination with some other form of benefit
24 payment; or

1 (iii) Any other option for which the actuarial
2 equivalent of the option to the maximum
3 retirement allowance is determined at the time
4 of the member's retirement in whole or in part
5 on the age of the member's beneficiary."

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

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

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

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1 member's accumulated contributions shall not be less
2 than one hundred per cent of the compensation;

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

15 (3) If the member was eligible for service retirement at
16 the time of death in service, the member's designated
17 beneficiary may elect to receive in lieu of any other
18 payment provided in this section, the allowance that
19 would have been payable as if the member had retired
20 on the first day of a month following the member's
21 death, except for the month of December when
22 retirement on the first or last day of the month shall
23 be allowed. Benefits payable under this paragraph
24 shall be calculated under option 2 of section 88-83.

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

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

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

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

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

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

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

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

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

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- 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.

22 The pension shall be payable effective on the first day of the
23 month following the member's death, except for the month of

1 December, when benefits shall be effective on the first or last
2 day of the month."

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

5 "§88-85.5 [Accidental] Applications for accidental death
6 [claims] benefits; approval by the board of trustees. (a) An
7 application for service-connected accidental death benefits may
8 be filed with the system by or on behalf of the claimant [~~as~~
9 ~~specified in sections]~~ pursuant to section 88-85, 88-286, [and]
10 or 88-339[-], on a form provided by the system. The application
11 shall be filed no later than [~~two~~] three years from the date of
12 [~~receipt of the written notification from the system.~~] the
13 member's death.

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

- 17 (1) A copy of the employer's report of the accident
18 submitted by the employer to the department of labor
19 and industrial relations, workers' compensation
20 division, and other reports relating to the accident;
- 21 (2) A certified statement from the head of the department
22 in which the deceased member was employed, stating the
23 date, time, and place of the accident, and the nature
24 of the service being performed when the accident

1 occurred. The statement shall also include an opinion
2 as to whether or not the accident was the result of
3 wilful negligence on the deceased member's part;

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

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

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

8 (c) ~~[If the medical board certifies that the death was the~~
9 ~~natural and proximate result of an accident occurring at some~~
10 ~~definite time and place while the member was in the actual~~
11 ~~performance of duty, or that the death was due to the result of~~
12 ~~some occupational hazard, the board shall decide that the death~~
13 ~~was the result of an accident in the performance of duty and not~~
14 ~~caused by wilful negligence on the part of the member.] Upon~~

15 the system's receipt of the application and documents specified
16 in subsection (b), the medical board shall determine and certify
17 to the board of trustees whether the member's death was an
18 accidental death as defined in section 88-21.

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

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

24 (2) A finding by the medical board.

1 ~~[(d)]~~ (e) After the medical board submits its certification
2 to the system, the board of trustees shall approve or disapprove
3 the application. Upon approval~~[7]~~ of an application, benefits
4 shall be paid ~~[effective the date the claim was filed with the~~
5 ~~system, in accordance with sections]~~ as provided in section 88-
6 85, 88-286, [and] or 88-339."

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

9 "§88-93 Named beneficiaries by ~~[active]~~ members~~[7]~~ and by
10 former employees with vested benefit status; effect of marriage,
11 entry into reciprocal beneficiary relationship, divorce,
12 termination of reciprocal beneficiary relationship, or death.

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

- 16 (1) The beneficiary predeceases the member~~[7]~~ or former
17 employee;
- 18 (2) The member or former employee is divorced from the
19 beneficiary;
- 20 (3) The member or former employee is unmarried, and
21 subsequently marries; or
- 22 (4) The member or former employee enters into or
23 terminates a reciprocal beneficiary relationship.

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

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

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

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

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

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

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

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

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

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

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

21 (1) If the member becomes an employee again within fifteen
22 calendar days from the date the member ceased to be an
23 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 If the contributions are not withdrawn by the ~~[member]~~ former
5 employee within four calendar years following the calendar year
6 in which the ~~[member's]~~ former employee's employment terminates,
7 the ~~[member]~~ former employee shall have established vested
8 benefit status and shall be eligible for the service retirement
9 benefit in effect at the time of the ~~[member's]~~ former
10 employee's retirement, payable in accordance with this chapter
11 ~~[and the contributions shall not be withdrawn by the member~~
12 ~~thereafter.]; provided that if the former employee withdraws the~~
13 former employee's accumulated contributions, the former
14 employee's vested benefit status shall terminate and all
15 credited service shall be forfeited."

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

18 "**§88-98 Return to service of a retirant.** (a) Any
19 retirant who returns to employment requiring active membership
20 shall be reenrolled as an active member of the system in the
21 same class from which the retirant originally retired and the
22 retirant's retirement allowance shall be suspended.

1 (1) If the retirant returns to service before July 1,
2 1998, and again retires, the retirant's retirement
3 allowance shall consist of:

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

18 (B) For members with three or more years of credited
19 service during the member's period of
20 reemployment, the allowance computed as if the
21 member were retiring for the first time; provided
22 that in no event shall the allowance be less than
23 the amount determined in accordance with
24 subparagraph (A);

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

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

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

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

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

16 (c) If a retirant's designation of beneficiary was
17 irrevocable upon the retirant's initial retirement, the retirant
18 may not change the retirant's designated beneficiary when the
19 retirant returns to service or when the former retirant again
20 retires.

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

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

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1 "§88-119 **Investments.** Investments may be made in:
2 (1) Real estate loans and mortgages. Obligations (as
3 defined in section 431:6-101) of any of the following
4 classes:
5 (A) Obligations secured by mortgages of nonprofit
6 corporations desiring to build multirental units
7 (ten units or more) subject to control of the
8 government for occupancy by families displaced as
9 a result of government action;
10 (B) Obligations secured by mortgages insured by the
11 Federal Housing Administration;
12 (C) Obligations for the repayment of home loans made
13 under the Servicemen's Readjustment Act of 1944
14 or under Title II of the National Housing Act;
15 (D) Other obligations secured by first mortgages on
16 unencumbered improved real estate owned in fee
17 simple; provided that the amount of the
18 obligation at the time investment is made therein
19 shall not exceed eighty per cent of the value of
20 the real estate and improvements mortgaged to
21 secure it, and except that the amount of the
22 obligation at the time investment is made therein
23 may exceed eighty per cent but no more than
24 ninety per cent of the value of the real estate

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

22 (E) Other obligations secured by first mortgages of
23 leasehold interests in improved real estate;
24 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
23 mortgaged to secure it. The insurance coverage
24 shall remain in force until the principal amount

1 of the obligation is reduced to eighty per cent
2 of the market value of the leasehold interest and
3 improvements mortgaged to secure it, at which
4 time the coverage shall be subject to
5 cancellation solely at the option of the board of
6 trustees;

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

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

21 The board of trustees may retain such real estate,
22 including leasehold interests therein, as it may
23 acquire by foreclosure of mortgages or in enforcement
24 of security, or as may be conveyed to it in

1 satisfaction of debts previously contracted; provided
2 that all such real estate, other than leasehold
3 interests, shall be sold within five years after
4 acquiring the same, subject to extension by the
5 governor for additional periods not exceeding five
6 years each, and that all such leasehold interests
7 shall be sold within one year after acquiring the
8 same, subject to extension by the governor for
9 additional periods not exceeding one year each;

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

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

21 (B) Revenue bonds, whether or not permitted by any
22 other provision hereof, of the State or any
23 municipal or political subdivision thereof,
24 including the board of water supply of the city

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

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

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

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

21 (11) Private placements. Investments in institutional blind
22 pool limited partnerships or limited liability
23 companies or direct investments that make private debt
24 and equity investments in privately held companies,

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

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

11 "**§88-132 Service credit; payment of contributions.** (a)

12 Every active member of the system who leaves active service of
13 the State or any county for the purpose of entering the military
14 service of the United States in time of war or declared national
15 or state emergency, or is called involuntarily to active duty
16 after June 24, 1950, shall, so long as the member remains in
17 military service, be allowed service credit in the system to the
18 same extent as if the member were continuously in the active
19 service of the State or county, as the case may be, in the
20 position which the member held immediately prior to the member's
21 entry into military service; provided that in no event shall the
22 allowance of service credit exceed a period of four years.

23 (b) The State or county, as the case may be, in whose
24 service the member was employed immediately prior to the

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

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

15 (2) The member returns to state or county government
16 service within ninety days of release from active duty
17 or dies in the performance of the member's military
18 service; and

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

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

1 (1) The member returns to state or county government
2 service; or
3 (2) The State or county, as the case may be, receives
4 notice of the member's death in the performance of the
5 member's military duty.
6 (d) If the State or county, as the case may be, fails to
7 pay the contributions within the time specified in subsection
8 (c), the State or county, as the case may be, shall also pay to
9 the system interest at the rate of four and one-half per cent
10 per annum from the date the member returned to state or county
11 government service or the date of the member's death in the
12 performance of the member's military duty until payment is made.
13 Interest paid on the portion of the contributions that would
14 have been payable by the member shall be included in the
15 member's accumulated contributions."

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

18 "**§88-137 Ordinary death benefit.** If any service member
19 dies, the service member shall be deemed to be on authorized
20 leave without pay for the purposes of the ordinary death benefit
21 provided in sections 88-84, 88-286(b), and 88-338 [~~shall be paid~~
22 ~~to the service member's estate or the service member's~~
23 designated beneficiary] ."

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

3 "§88-138 Accidental death benefit. [~~The estate, or~~
4 ~~designated beneficiary of a]~~ If a service member [who] dies by
5 accident, act of war, or other cause, occurring while the
6 service member is not in the active service of the State or any
7 county, [shall not be entitled to] the death shall not be an
8 accidental death [benefit provided by] and shall not be eligible
9 for accidental death benefits under sections 88-85, 88-286(c),
10 and 88-339; however, the [estate or the beneficiary shall be
11 entitled to the] ordinary death benefit shall be payable as
12 provided in section 88-137."

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

15 "§88-140 Duration of service member's status. [~~A service~~
16 ~~member shall continue to be entitled to the benefits of the~~
17 ~~Servicemen's Act until the expiration of ninety days after the~~
18 ~~termination of the service member's service in the armed forces~~
19 ~~unless the service member shall within the ninety day period~~
20 ~~have reentered the service of the State or any county, in a~~
21 ~~position which constitutes the service member an employee as~~
22 ~~defined by section 88-21, in which latter event the service~~
23 ~~member's status thenceforth shall be the same as that of any~~
24 ~~other regular member of the system in the service without any~~

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

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

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1 ~~service member was ordered to active duty.]~~ (a) An active
2 member of the system who leaves active service of the State or
3 any county for the purpose of entering the military service of
4 the United States in time of war or declared national or state
5 emergency, or is called involuntarily to active duty after June
6 24, 1950, shall be entitled to the benefits of sections 88-134,
7 88-135, and 88-137:

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

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

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

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

23 (2) The expiration of the service member's rights under
24 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.~~

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

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

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

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

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

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

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

23 "(c) Any retirant who retired under the provisions of part
24 VII of this chapter and returns to service requiring membership

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

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

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

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

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

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

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

18 (2) Option B: A reduced allowance payable to the member,
19 then upon the member's death, the same allowance,
20 including cumulative post retirement allowances, paid
21 to the member's beneficiary designated by the member
22 at the time of retirement, for the life of the
23 beneficiary; provided that for members retiring after
24 November 30, 2004, in the event that the retirant's

1 beneficiary dies at any time after the retirant
2 retired, but before the death of the retirant, the
3 retirant, upon the death of the retirant's
4 beneficiary, shall receive a retirement allowance,
5 including cumulative post retirement allowances,
6 calculated as if the retirant had selected the maximum
7 retirement allowance to which the retirant is
8 entitled; or

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

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

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

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

- 21 (1) The member's election of a [mode-of] retirement
22 allowance option shall be irrevocable [and subject to
23 the spousal or reciprocal beneficiary notification
24 requirement under subsection (e).]; and

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

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

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

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

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

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

15 (2) The member selects option A or option B and designates
16 the spouse or reciprocal beneficiary as the
17 beneficiary; or

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

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

22 (B) The spouse or reciprocal beneficiary cannot be
23 located;

1 (C) The member has failed to notify the system that
2 the member has a spouse or reciprocal beneficiary
3 or has failed to provide the system with the name
4 and address of the member's spouse or reciprocal
5 beneficiary; or

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

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

21 (1) The terms and conditions of the various benefit
22 options;

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

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

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

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

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

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

21 The effective date of the member's retirement shall be [a] the
22 first day of a month, except for the month of December when the
23 effective date of retirement may be on the first or last day of
24 the month, and shall be no earlier than the later of thirty days

1 from the date the member's retirement application was filed or
2 the day following the member's date of death. The election may
3 not be made if, at the time of the member's death, there are
4 individuals who are eligible to receive death benefits under
5 section 88-286(c) who have made a claim for the benefits;
6 provided that, if the designated beneficiary is an individual
7 eligible to receive benefits under section 88-286(c), the
8 designated beneficiary may receive benefits pursuant to an
9 election under this section pending disposition of the claim for
10 benefits under section 88-286(c). No death benefits will be
11 payable under section 88-286(c) while benefits are paid pursuant
12 to an election made under this section.

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

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

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

11 SECTION 31. Section 88-286, Hawaii Revised Statutes, is
12 amended by amending subsections (a), (b), and (c) to read as
13 follows:

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

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

23 (1) For the surviving spouse or reciprocal beneficiary, an
24 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
23 the month shall be allowed and had elected to receive

1 a retirement allowance under option B of section 88-
2 283; and

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

16 For the purpose of determining eligibility for the ordinary
17 death benefit, a year round school employee shall be considered
18 in service during the July and August preceding a transfer to a
19 traditional school schedule if the employee was in service for
20 the entire prior school year and has a contract for the upcoming
21 traditional school year. The application for ordinary death
22 benefits shall be filed no later than three years from the date
23 of the member's death.

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

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

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

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

23 (B) Three per cent of the member's average final
24 compensation; provided that the aggregate death

1 benefits for all the [~~dependent~~] children under
2 the age of eighteen shall not exceed six per cent
3 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; and

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

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

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

22 The death benefit under this paragraph shall be
23 payable to each [~~dependent~~] child until the
24 [~~dependent~~] child attains age eighteen."

1 SECTION 32. Section 88-301, Hawaii Revised Statutes, is
2 amended to read as follows:

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

5 (1) Subpart A;

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

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

11 (4) Subpart D; and

12 (5) Subpart E."

13 SECTION 33. Section 88-321, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

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

1 of the United States, shall have thirty days after the member
2 returns to the member's regular employment with the State or a
3 county to make the election. The election shall be made by
4 members entering or returning to service after February 28,
5 2006, within thirty days of entering or returning to service.
6 The election shall be irrevocable.

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

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

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

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

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

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

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

20 (1) To forfeited credit for previous service ~~not~~ that a
21 member is eligible to have restored as of June 30,
22 2006; ~~or~~ and

23 (2) To membership service credit that a member is eligible
24 to claim under section 88-272(4) to (6) as of June 30,

1 2006 [~~, which the member has failed to claim by~~
2 ~~June 30, 2006.~~];
3 provided that the member shall claim the forfeited service
4 credit and the membership service credit by the date established
5 by the board at a meeting held pursuant to chapter 92.

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

- 1 (1) To forfeited credit for previous service [~~not~~] that a
2 member is eligible to have restored as of June 30,
3 2006; [~~or~~] and
- 4 (2) To membership service credit that a member is eligible
5 to claim under section 88-272(4) to (6) as of June 30,
6 2006 [~~, which the member has failed to claim by~~
7 ~~June 30, 2006.~~];
- 8 provided that the member shall claim the forfeited service
9 credit and the membership service credit by the date established
10 by the board at a meeting held pursuant to chapter 92."

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

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

- 20 (1) By deductions from the member's compensation pursuant
21 to section 414(h)(2) of the Internal Revenue Code of
22 1986, as amended, under the employer pick up plan
23 under section 88-326. An irrevocable payroll
24 authorization filed by the member for a period not to

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1 exceed sixty months shall remain in effect until the
2 completion of the payroll payments or termination of
3 employment, whichever is earlier. The amount of
4 service credit that may be acquired pursuant to this
5 method shall not exceed the period over which the
6 payroll payments are made. The member may elect to
7 have:

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

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

20 (2) By lump sum payment of contributions computed at the
21 contribution rate applicable to the member under
22 section 88-45 as of June 30, 2006, applied to the
23 member's monthly rate of compensation at the time of

1 payment, multiplied by the number of months for which
2 membership service credit is allowable.

3 The deductions from compensation or lump sum payment shall be
4 paid to the system and shall be credited to the member's
5 individual account and become part of the member's accumulated
6 contributions.

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

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

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

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

21 (2) Class A, class B, or class C credited service shall be
22 restored as class C credited service at the rate of
23 one month of service credit for each month of service
24 rendered following the later of conversion to class H

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1 membership or the return to membership as a class H
2 member.

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

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

6 " ~~[†] §88-333 [†]~~ ~~[Retirement]~~ Election of retirement
7 allowance ~~[options.]~~ option. (a) Upon retirement:

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

20 (2) In lieu of the maximum allowance to which the member
21 is entitled, computed in accordance with the
22 provisions described under section 88-332, 88-335, or
23 88-337, the member may elect to receive the member's
24 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.

22 (c) If a retirant dies within one year after the date of
23 retirement, the retirant's designated beneficiary may elect to
24 receive either the death benefit under the retirement allowance

1 option selected by the member, or the benefits that would have
2 been paid under section 88-338 had the retirant died immediately
3 prior to retirement, less any payments received by the retirant.

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

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

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

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

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

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

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

20 unless:

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

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- 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 adopted by the
7 board in accordance with chapter 91;
- 8 (2) The member selects option 2 or option 3 under section
9 88-83 and designates the spouse or reciprocal
10 beneficiary as the 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
19 beneficiary, or has failed to provide the system
20 with the name and address of the member's spouse
21 or reciprocal beneficiary; or
- 22 (D) Of other reasons, as established by board rules
23 adopted in accordance with chapter 91.

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

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

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

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

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

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

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

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

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

- 1 shall be calculated under option 3 of section 88-83
2 and computed on the basis of section 88-335; or
- 3 (4) If the member was eligible for service retirement at
4 the time of death, the member's designated beneficiary
5 may elect to receive in lieu of any other payment
6 provided in this section, the allowance that would
7 have been payable as if the member had retired on the
8 first day of a month following the member's death,
9 except for the month of December when retirement on
10 the first or last day of the month shall be allowed.
11 Benefits payable under this paragraph shall be
12 calculated under option 2 of section 88-83.
- 13 (b) If the member's designation of beneficiary is void as
14 specified in section 88-93, or if the member did not designate a
15 beneficiary, the death benefit in the case of ordinary death
16 shall be payable:
- 17 (1) To the surviving spouse or reciprocal beneficiary, a
18 benefit as specified under subsection (a);
- 19 (2) To the deceased member's [~~dependent child, or~~
20 children under age eighteen, if there is no surviving
21 spouse or reciprocal beneficiary, an equally divided
22 benefit as specified under paragraph (1) or (2) of
23 subsection (a); or

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

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

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

14 SECTION 39. Section 88-339, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

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

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

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

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

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

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

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

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

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

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

19 "~~§~~88-344 ~~§~~ Return to service of a retirant. (a) Any
20 retirant who retired under the provisions of part VIII of this
21 chapter and returns to service requiring membership in the
22 system as a class H member shall be reenrolled as an active
23 member, and the retirant's retirement allowance shall be

1 suspended. At such time as the member again retires, the
2 retirement allowance shall be the sum of:

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

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

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

21 (1) The allowance to which the member was entitled under
22 the [~~mode-of~~] retirement allowance option selected
23 when the member previously retired and which was
24 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
22 retirant returns to service or when the former retirant again
23 retires.

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To amend chapter 88, Hawaii Revised Statutes, to clarify and correct existing language, conform statutes to current practice and include language previously omitted from prior legislation.

MEANS: Amend sections 88-1, 88-2, 88-21, 88-31, 88-59.6, 88-61, 88-62, 88-74.5, 88-76, 88-81.5, 88-83, 88-84, 88-85, 88-85.5, 88-93, 88-95, 88-96, 88-98, 88-119, 88-132, 88-137, 88-138, 88-140, 88-215, 88-224, 88-227, 88-228, 88-251, 88-261, 88-271, 88-273, 88-283, 88-286, 88-301, 88-321, 88-322, 88-324, 88-329, 88-333, 88-338, 88-339, 88-341, 88-344, Hawaii Revised Statutes.

JUSTIFICATION: In addition to making housekeeping amendments with no substantive effect, this bill also proposes the following amendments.

- (1) Section 88-21: 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. Adds a definition of "active member" to conform to administrative interpretation. Amends the definition of "beneficiary" to conform to administrative interpretation. Adds definitions of "accidental death" and "ordinary death" to provide consistent application of standards for accidental and ordinary death benefits among all classes of employees' retirement system members.

- (2) Section 88-61: Conforms the statute to administrative interpretation. The credited service of a contributory plan member without vested benefit status is forfeited when the individual's membership in the employees' retirement system terminates.
- (3) Sections 88-62, 88-96(a), and 88-321(b): 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. Otherwise, Federal tax law requires the employees' retirement system to establish an individual retirement plan (an IRA) for the members when the contributions must be distributed, unless the member or former member affirmatively: (i) elects to receive the distribution directly; or (ii) directs the system to pay the distribution as a direct rollover to an eligible retirement plan.
- (4) Section 88-76: Conforms the statute to administrative interpretation and provides for consistency in the calculation of ordinary disability allowances among all classes of employees' retirement system members.
- (5) Section 88-81.5: Conforms the statute to the administrative interpretation of the calculation of the nontax-qualified benefit for highly compensated individuals who had accrued pension benefits prior to imposition of the Federally mandated pension compensation limit.
- (6) Sections 88-83, 88-93, 88-98, 88-273, 88-283, 88-333, and 88-344: Conforms the statutes to administrative

interpretation as to when and under what circumstances beneficiary designations may be changed by a member, former member or retirant of the employees' retirement system.

- (7) Section 88-84(a): Clarifies that the ordinary death benefit described in paragraph (2) is applicable to members with ten or more years of service who are not eligible to retire.
- (8) Sections 88-84(b), 88-286(a), 88-286(b), 88-286(c), and 88-338(b): Amends the statutes to conform to administrative interpretation and to streamline the administration of the statutes by deleting the requirement that the deceased member's children, who must be under the age of eighteen to receive the benefits in question, must also have been "dependents" of the deceased member.
- (9) Sections 88-84(d), 88-286(b), and 88-338(d): Adds a deadline for filing claims for ordinary death benefits for members of the employees' retirement system. Claim must be filed within three years of the member's death.
- (10) Sections 88-85, 88-85.5, 88-261, 88-286, and 88-339: Conforms the statutes to administrative interpretation relating to claims for accidental death benefits for members of the employees' retirement system. Replaces "recklessness" as grounds for disqualification for accidental death benefits under the noncontributory plan with the "wilful negligence" standard of the contributory and hybrid plans. Changes the deadline for filing a claim from two years after notification by the employees' retirement system to three years from the member's death.

- (11) Sections 88-96(a) and 88-341: Conforms the language of these contributory plan and hybrid plan provisions to administrative interpretation and to the language used in the corresponding section for the noncontributory plan. Accumulated sick leave is not taken into consideration in determining whether an employees' retirement system member leaving government service has "vested."
- (12) Section 88-96(b): Allows former employees with vested contributory plan rights in the employees' retirement system to withdraw their contributions at anytime. Under existing law, if such a former employee does not withdraw the former employee's contributions within four years after leaving government service, the former employee must leave the former employee's contributions in the system until the former employee reaches retirement age.
- (13) Section 88-119: Allows the board of trustees of the employees' retirement system to use limited liability companies as an investment vehicle. Limited liability companies have become a common means of investing and holding assets while limiting the exposure of the owners to loss.
- (14) Section 88-132: Amends the section of the "Servicemen's Act" relating to employees' retirement system service credit for members who are called to active military duty to: clarify that the employers do not have to make the required pension contributions until the member returns to work or dies in military service; set a deadline for the contributions; and require payment of interest by the employer on late contributions. Also allows an eligible member who is called to active military

duty and dies while on active military duty to receive employees' retirement system service credit until the date of the member's death.

- (15) Sections 88-137 and 88-138: Clarifies that ordinary death benefits under the employees' retirement system are payable if a member dies while on active military duty in the same manner as the benefits would be paid if the member died while on any other authorized leave without pay and simplifies the existing statutory language excluding such members from eligibility for accidental death benefits.
- (16) Section 88-140: Simplifies existing statutory language and provides for termination after five years of an employees' retirement system member's eligibility for benefits under the Servicemen's Act. Existing law, which terminates the benefits upon voluntary extension of a member's military service, is difficult to administer.
- (17) Sections 88-215, 88-224, 88-227, and 88-228: Allows interagency transfer, by journal entry, of funds to pay the State's employer contributions for Social Security and Medicare. The existing statutes require the funds to be channeled through the employees' retirement system's custodian of funds, thereby increasing the risk of error and late payment. The Internal Revenue Service imposes penalties for late payment of the employer contributions.
- (18) Section 88-271: Conforms the statute to the administrative interpretation of when a returning member may elect to join the noncontributory plan; returning members may not join the noncontributory plan after the hybrid plan goes into effect on July 1, 2006.

- (19) Section 88-321(a): Allows employees' retirement system members who are out of the State while on active military duty on the hybrid plan election deadline to have additional time to make the election.
- (20) Sections 88-322 and 88-324: Eliminates the June 30, 2006, deadline by which members must restore forfeited service credit and claim membership service in order for such service to be eligible for conversion to class H (hybrid plan) membership service. The deadline imposes an unnecessary burden on members and on the employees' retirement system because, at this time, it is not known whether Federal law will permit pre-June 30, 2006, service to be converted to class H membership service. The board is given the authority to establish a new deadline.

Impact on the public: The expanded definition of "child or children" eligible to receive employees' retirement system death benefits more closely matches employees' retirement system members' expectations.

Impact on the department and other agencies: The amendments will streamline the administration of the employees' retirement system.

The financial effect of expanding the definition of "child or children" eligible to receive employees' retirement system death benefits is unknown.

If a State or county public employer is late in paying the pension contributions for its employees who are on active military duty, it will be liable for interest at the rate of four and a half percent per annum.

GENERAL FUND: If the State is late in paying the pension contributions for its employees who are on active military duty, it will be liable for interest at the rate of four and a half percent per annum.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED AGENCIES: All State and county public employers.

EFFECTIVE DATE: July 1, 2006, except for section 29, which will be retroactive to July 1, 2003, sections 36 and 44, which will be retroactive to July 1, 2004, section 37, which will be retroactive to January 1, 2006, and sections 39 and 40, which shall be effective June 30, 2006.