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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1           SECTION 1. Section 88-21, Hawaii Revised Statutes, is  
2 amended by adding four new definitions to be appropriately  
3 inserted and to read as follows:

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

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

10          "Child or children":

11          (1) A natural child of a member;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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



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

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





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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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

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

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



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

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



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

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

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



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

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

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





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

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

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

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

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

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

19 (2) The member selects option 2 or option 3 and designates  
20 the spouse or reciprocal beneficiary as the  
21 beneficiary; or



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

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

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

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

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



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

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

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

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

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

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

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



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

9 (h) Upon a member's retirement:

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

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

15 (A) Option 2 or 3;

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

15 (2) A finding by the medical board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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





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

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

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

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

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



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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

1           made therein may exceed eighty per cent but  
2           no more than ninety per cent of the value of  
3           the leasehold interest and improvements  
4           mortgaged to secure it;

5           provided further that the obligation is insured  
6           or guaranteed against default or loss under a  
7           mortgage insurance policy issued by a casualty  
8           insurance company licensed to do business in the  
9           State. The coverage provided by the insurer  
10          shall be sufficient to reduce the system's  
11          exposure to not more than eighty per cent of the  
12          value of the leasehold interest and improvements  
13          mortgaged to secure it. The insurance coverage  
14          shall remain in force until the principal amount  
15          of the obligation is reduced to eighty per cent  
16          of the market value of the leasehold interest and  
17          improvements mortgaged to secure it, at which  
18          time the coverage shall be subject to  
19          cancellation solely at the option of the board  
20          ~~[of trustees]~~;

21          (F) Obligations for the repayment of home loans  
22          guaranteed by the department of Hawaiian home



1 lands pursuant to section 214(b) of the Hawaiian  
2 Homes Commission Act, 1920; and

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

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





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

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

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

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



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



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

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

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

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

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

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

1 service of the State or county, as the case may be, in the  
2 position which the member held immediately prior to the member's  
3 entry into military service; provided that in no event shall the  
4 allowance of service credit exceed a period of four years.

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

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

21 (2) The member returns to state or county government  
22 service within ninety days of release from active duty



1           or dies in the performance of the member's military  
2           service; and

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

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

8           (1) The member returns to State or county government  
9           service; or

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

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

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

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

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

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

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





1           "**§88-140 Duration of service member's status.** [~~A service~~  
2 ~~member shall continue to be entitled to the benefits of the~~  
3 ~~Servicemen's Act until the expiration of ninety days after the~~  
4 ~~termination of the service member's service in the armed forces~~  
5 ~~unless the service member shall within the ninety day period~~  
6 ~~have reentered the service of the State or any county, in a~~  
7 ~~position which constitutes the service member an employee as~~  
8 ~~defined by section 88-21, in which latter event the service~~  
9 ~~member's status thenceforth shall be the same as that of any~~  
10 ~~other regular member of the system in the service without any~~  
11 ~~loss of the service credit preserved and allowed to the service~~  
12 ~~member under the Servicemen's Act, or unless the service member~~  
13 ~~shall have resigned before the expiration of the ninety day~~  
14 ~~period and waived the service member's right to such~~  
15 ~~reemployment. In the event the service member fails to reenter~~  
16 ~~the service of the State or any county within the ninety day~~  
17 ~~period, and shall not have resigned from the system and waived~~  
18 ~~the service member's right to reemployment, the service member's~~  
19 ~~status thereafter shall be the same as that of a regular member~~  
20 ~~who terminated the regular member's employment as such an~~  
21 ~~employee and such termination shall be deemed to have occurred~~



1 ~~on the ninetieth day after the termination of the service~~  
2 ~~member's service in the armed forces.~~

3 ~~A service member who voluntarily extends the service~~  
4 ~~member's period of service in the armed forces ninety or more~~  
5 ~~days beyond the expiration date of the service member's initial~~  
6 ~~enlistment or the period for which the service member was~~  
7 ~~inducted or the period for which the service member was ordered~~  
8 ~~to active duty shall be deemed to be on the same status as that~~  
9 ~~of a regular member who terminates the regular member's~~  
10 ~~employment as an employee, and the termination shall be deemed~~  
11 ~~to have occurred on the ninetieth day following the expiration~~  
12 ~~date of the service member's enlistment or the period for which~~  
13 ~~the service member was inducted or the period for which the~~  
14 ~~service member was ordered to active duty.] (a) An active~~

15 member of the system who leaves active service of the State or  
16 any county for the purpose of entering the military service of  
17 the United States in time of war or declared national or state  
18 emergency, or is called involuntarily to active duty after  
19 June 24, 1950, shall be entitled to the benefits of sections  
20 88-134, 88-135, and 88-137:

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

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

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

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

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

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

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

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

21       "**§88-251 Applicability.** The following provisions of part  
22       II shall apply to this part:

- 1 (1) Subpart A, except the definitions provided in section
- 2 88-21, unless expressly adopted in section 88-261;
- 3 (2) Subpart B, except sections 88-45, 88-45.5, 88-46,
- 4 88-48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and
- 5 88-62;
- 6 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,
- 7 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83,
- 8 88-84 [~~to~~], 88-85, 88-87 [~~to~~], 88-88, 88-89, 88-96,
- 9 88-97, and 88-98;
- 10 (4) Subpart D, except sections 88-112 and 88-113; and
- 11 (5) Subpart E."

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

- 14 "(a) Any class A or class B member who:
- 15 (1) Is in service on June 30, 1984, or who returns to
- 16 service after June 30, 1984, but before July 1, 2006,
- 17 and has vested benefit status as provided in section
- 18 88-96(b); and
- 19 (2) Is in a position covered by Title II of the Social
- 20 Security Act,
- 21 may elect to become a class C member effective January 1, 1985;
- 22 or upon return to service, by filing an election form with the

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

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

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



1 initially selected and computed for the member's age, average  
 2 final compensation, and other factors in accordance with the  
 3 benefit formula of a class C member in existence at the time of  
 4 the member's final retirement. If the member's designation of  
 5 beneficiary was irrevocable upon the member's initial  
 6 retirement, the member may not change the member's designated  
 7 beneficiary when the member returns to service or when the  
 8 member again retires.

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

1 member's final retirement. If the member's designation of  
2 beneficiary was irrevocable upon the member's initial  
3 retirement, the member may not change the member designated  
4 beneficiary when the member returns to service or when the  
5 member again retires."

6 SECTION 29. Section 88-283, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By amending its title and subsections (a) and (b) to  
9 read:

10 "~~§88-283~~ **[Retirement]** Election of retirement allowance  
11 [options.] option. (a) Upon retirement, any member may elect  
12 to receive the maximum retirement allowance to which the member  
13 is entitled, computed in accordance with section 88-282, 88-284,  
14 or 88-285, and, if the member elects to receive the maximum  
15 retirement allowance, the member's beneficiary shall not be  
16 entitled to any benefit upon the member's death, except as  
17 provided in subsection (g). In lieu of the maximum retirement  
18 allowance [~~described in sections 88-282, 88-284, and 88-285~~], a  
19 member may elect to receive the member's retirement allowance  
20 under one of the options described below, which shall be  
21 actuarially equivalent to the maximum retirement allowance:

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





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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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



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

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

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



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

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

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

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

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



1 accrued maximum retirement allowance unreduced  
2 for age; or

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

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

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

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



1 (B) Six per cent of the member's average final  
2 compensation; provided that the aggregate death  
3 benefits for all the [~~dependent~~] children under  
4 the age of eighteen shall not exceed twelve per  
5 cent of the member's average final compensation.

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

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

11 "[~~+~~§88-301[~~+~~] **Applicability.** The following provisions of  
12 part II of this chapter shall apply to this part:

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

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



1           "(a) Any member, except for ~~members~~ a member described  
2 in subsection (c), who is in service on June 30, 2006, or who  
3 returns to service after June 30, 2006, and has vested benefit  
4 status in accordance with section 88-96(b), may elect to become  
5 a class H member effective July 1, 2006, or upon return to  
6 service, by filing an election form with the system in  
7 accordance with this section. The election shall be made prior  
8 to April 1, 2006, by members in service on February 28, 2006~~[-]~~;  
9 provided that any member in service on February 28, 2006, who is  
10 absent from the state on that date while in the military service  
11 of the United States, shall have thirty days after the member  
12 returns to the member's regular employment with the State or a  
13 county to make the election. The election shall be made by  
14 members entering or returning to service from March 1, 2006,  
15 through June 30, 2006, within sixty days of entering or  
16 returning to service. The election shall be made by members  
17 entering or returning to service after ~~February 28,~~ June 30,  
18 2006, within thirty days of entering or returning to service.  
19 The election shall be irrevocable."

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



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

3           (1) A class C member who returns to service and who does  
4 not return to service as a class A or a class B member  
5 shall become a class H member upon return to service;  
6 provided that, if the member is a former class A or  
7 class B member who received a refund of contributions  
8 picked up and paid by the member's employer pursuant  
9 to section 88-46(b), the member may not become a class  
10 H member and shall return to service as a class C  
11 member, unless the refund was made pursuant to section  
12 88-96 or 88-271(b); and

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

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 are greater than \$1,000 and the  
6           member does not make written application,  
7           contemporaneously with the member's return to service,  
8           for return of such contributions, the member, except  
9           as provided by section 88-341, may not withdraw the  
10           member's accumulated contributions for the class A or  
11           B credited service that was converted to class C  
12           credited service until the member retires or attains  
13           age sixty-two."

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

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



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

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

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

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

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

22 Class A and class B members who are in service on June 30, 2006,



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

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

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

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

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

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



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

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

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

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

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

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

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

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





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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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



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

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

5       (B) An option that includes option 2 or 3 in  
6       combination with some other form of benefit  
7       payment; or

8       (C) Any other option for which the actuarial  
9       equivalent of the option to the maximum  
10       retirement allowance is determined at the time of  
11       the member's retirement in whole or in part on  
12       the age of the member's beneficiary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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





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

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

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

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

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

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



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

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



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

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

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

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



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

9           (1) The individual becomes an employee again within  
10           fifteen calendar days from the date the individual  
11           ceased to be an employee; or

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

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



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

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

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

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

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

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

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

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

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

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

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

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

17 SECTION 41. Section 88-261, Hawaii Revised Statutes, is  
18 amended by repealing the definitions of "accidental death" and  
19 of "ordinary death".

20 [~~"Accidental death": death which is the natural and~~  
21 ~~proximate result of an accident occurring at some definite time~~  
22 ~~and place while the member was in the actual performance of~~



1 ~~duty, or due to the result of some occupational hazard, and not~~  
2 ~~caused by recklessness on the part of the member.~~

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

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

7 SECTION 43. This Act shall take effect on July 1, 2006;  
8 provided that section 26 shall take effect retroactive to  
9 July 1, 2003, sections 31 and 39 shall take effect retroactive  
10 to July 1, 2004, section 32 shall take effect retroactive to  
11 January 1, 2006, and sections 34 and 35 shall take effect on  
12 June 30, 2006.





**Report Title:**

ERS; Benefits and Entitlements

**Description:**

Adds a definition of "child or children" to conform to administrative interpretation and includes in the definition: children living with an ERS member in a regular parent-child relationship for whom the member is the guardian or has legal and physical custody pursuant to a valid court order. Allows former nonvested contributory plan members whose accumulated contributions are more than \$1,000 to withdraw these funds upon their return to service. Allows noncontributory plan members hired or returning to service from 3/1/06 through 6/30/06 to elect to join the hybrid plan. (CD1)

