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

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



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

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

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

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



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

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

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

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

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



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

- 7 (1) The pension benefit that would be payable at the
8 earliest age the member could retire with an unreduced
9 benefit, based on the member's years of credited
10 service, the member's class of service, and the
11 member's average final compensation as of
12 June 30, 2004, without regard to the limit under
13 section 401(a)(17); and
- 14 (2) The tax-qualified pension benefit that would be
15 payable at the earliest age the member could retire
16 with an unreduced benefit, based on the member's years
17 of credited service and the member's class of service
18 as of June 30, 2004, and the member's average final
19 compensation as limited by section 401(a)(17) as of
20 the earliest age the member could retire with an
21 unreduced benefit, or, upon the member's termination
22 of service, if earlier."

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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



1 (B) The spouse or reciprocal beneficiary cannot be
2 located;

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

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

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



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



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

6 (h) Upon a member's retirement:

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

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

12 (A) Option 2 or 3;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (1) To the surviving spouse or reciprocal beneficiary of
21 the member to continue until the surviving spouse or

1 reciprocal beneficiary remarries, marries, or enters
2 into a new reciprocal beneficiary relationship;

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

15 (3) If there is no surviving spouse or reciprocal
16 beneficiary or child under the age of eighteen years
17 surviving the deceased member, then to the deceased
18 member's dependent father or dependent mother, as the
19 deceased member shall have nominated by written
20 designation duly acknowledged and filed with the
21 board, or if there is no [~~such~~] nomination, then to
22 the deceased member's dependent father or to the

1 deceased member's dependent mother as the board, in
2 its discretion, shall direct to continue for life.
3 The pension shall be payable effective on the first day of the
4 month following the member's death, except for the month of
5 December, when benefits shall be effective on the first or last
6 day of the month."

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

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

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

21 (1) A copy of the employer's report of the accident
22 submitted by the employer to the department of labor

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



1 to the board whether the member's death was an accidental death
2 as defined in section 88-21.

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

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

8 (2) A finding by the medical board.

9 ~~[-d-]~~ (e) After the medical board submits its certification
10 to the system, the board shall approve or disapprove the
11 application. Upon approval~~[7]~~ of an application, benefits shall
12 be paid ~~[effective the date the claim was filed with the system,~~
13 ~~in accordance with sections]~~ as provided in section 88-85,
14 88-286, ~~[and]~~ or 88-339."

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

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

21 (a) All ~~[nominations by]~~ written ~~[designation]~~ designations of



1 beneficiaries for members and for former employees with vested
2 benefit status shall become null and void when:

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

5 (2) The member or former employee is divorced from the
6 beneficiary;

7 (3) The member or former employee is unmarried, and
8 subsequently marries; or

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

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

21 (b) Subsection (a) shall not apply to active members who
22 are former retirants who have returned to service. The

1 beneficiaries of retirants who return to service may not be
2 changed except to the extent provided under the retirement
3 allowance option selected by the former retirant when the former
4 retirant first retired."

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

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

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

15 "(a) Any member who ceases to be an employee and who has
16 fewer than five years of credited service, excluding unused sick
17 leave, shall, upon application to the board [~~of trustees~~], be
18 paid all of the member's accumulated contributions and the
19 member's membership shall thereupon terminate[+] and all
20 credited service shall be forfeited; provided that [~~any such~~] a
21 member shall not be paid 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 ~~[The former employee's membership shall not continue after~~
8 ~~the fourth full year following the calendar year in which the~~
9 ~~individual's employment terminates. The system, as soon as~~
10 ~~possible after termination of a former employee's membership,~~
11 ~~shall return to the former employee the former employee's~~
12 ~~accumulated contributions.]~~ Regular interest shall be credited
13 to the former employee's account until the former employee's
14 accumulated contributions are returned to the former
15 employee[-]; provided that the former employee's membership
16 shall not continue after the fourth full year following the
17 calendar year in which the individual's employment terminates.
18 Upon termination of the former employee's membership, the former
19 employee's credited service shall be forfeited and, if the
20 former employee's accumulated contributions are \$1,000 or less
21 at the time of distribution, the system shall return the former
22 employee's contributions to the former employee. If the former



1 employee does not become an employee again and if the former
2 employee's accumulated contributions have not been withdrawn by
3 the former employee or previously returned by the system to the
4 former employee, the system shall return the former employee's
5 accumulated contributions to the former employee as soon as
6 possible after the former employee attains age sixty-two.

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

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

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

20 If the contributions are not withdrawn by the [~~member~~] former
21 employee within four calendar years following the calendar year
22 in which the [~~member's~~] former employee's employment terminates,

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

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

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

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

20 (A) For members with fewer than three years of
 21 credited service during the member's period of
 22 reemployment, the allowance to which the member

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

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

19 (2) If the retirant returns to service after
20 June 30, 1998, and again retires, the retirant's
21 retirement allowance shall be computed in accordance

1 with paragraph (1) (A), regardless of the number of
2 years of service in the reemployment period~~[+and]~~.

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

7 ~~[(+A)]~~ (1) Have the retirant's retirement allowance
8 suspended;

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

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

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

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

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

22 "**§88-119 Investments.** Investments may be made in:

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

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

1 (E) Other obligations secured by first mortgages of
2 leasehold interests in improved real estate;
3 provided that:

4 (i) Each [~~such~~] leasehold interest at [~~such~~] the
5 time shall have a current term extending at
6 least two years beyond the stated maturity
7 of the obligation it secures; and

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

18 provided further that the obligation is insured
19 or guaranteed against default or loss under a
20 mortgage insurance policy issued by a casualty
21 insurance company licensed to do business in the
22 State. The coverage provided by the insurer



1 shall be sufficient to reduce the system's
 2 exposure to not more than eighty per cent of the
 3 value of the leasehold interest and improvements
 4 mortgaged to secure it. The insurance coverage
 5 shall remain in force until the principal amount
 6 of the obligation is reduced to eighty per cent
 7 of the market value of the leasehold interest and
 8 improvements mortgaged to secure it, at which
 9 time the coverage shall be subject to
 10 cancellation solely at the option of the board
 11 [~~of trustees~~];

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

16 (G) Obligations secured by second mortgages on
 17 improved real estate for which the mortgagor
 18 procures a second mortgage on the improved real
 19 estate for the purpose of acquiring the
 20 leaseholder's fee simple interest in the improved
 21 real estate; provided that any prior mortgage
 22 does not contain provisions that might jeopardize



1 the security position of the retirement system or
2 the borrower's ability to repay the mortgage
3 loan.

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

18 (2) Government obligations, etc. Obligations of any of
19 the following classes:

20 (A) Obligations issued or guaranteed as to principal
21 and interest by the United States or by any state
22 thereof or by any municipal or political

1 subdivision or school district of any of the
2 foregoing; provided that principal of and
3 interest on [~~such~~] the obligations are payable in
4 currency of the United States; or sovereign debt
5 instruments issued by agencies of, or guaranteed
6 by foreign governments;

7 (B) Revenue bonds, whether or not permitted by any
8 other provision hereof, of the State or any
9 municipal or political subdivision thereof,
10 including the board of water supply of the city
11 and county of Honolulu, and street or improvement
12 district bonds of any district or project in the
13 State; and

14 (C) Obligations issued or guaranteed by any federal
15 home loan bank including consolidated federal
16 home loan bank obligations, the Home Owner's Loan
17 Corporation, the Federal National Mortgage
18 Association, or the Small Business
19 Administration;

20 (3) Corporate obligations. Below investment grade or
21 nonrated debt instruments, foreign or domestic, in

1 accordance with investment guidelines adopted by the
2 board [~~of trustees~~];

3 (4) Preferred and common stocks. Shares of preferred or
4 common stock of any corporation created or existing
5 under the laws of the United States or of any state or
6 district thereof or of any country;

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

9 (6) Obligations issued or guaranteed by the International
10 Bank for Reconstruction and Development, the
11 Inter-American Development Bank, the Asian Development
12 Bank, or the African Development Bank;

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

17 (8) Insurance company obligations. Contracts and
18 agreements supplemental thereto providing for
19 participation in one or more accounts of a life
20 insurance company authorized to do business in Hawaii,
21 including its separate accounts, and whether the
22 investments allocated thereto are comprised of stocks

1 or other securities or of real or personal property or
2 interests therein;

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

20 (10) Other securities and futures contracts. Securities
21 and futures contracts in which in the informed opinion
22 of the board [~~of trustees~~] it is prudent to invest

1 funds of the system, including currency, interest
2 rate, bond, and stock index futures contracts and
3 options on [~~such~~] the contracts to hedge against
4 anticipated changes in currencies, interest rates, and
5 bond and stock prices that might otherwise have an
6 adverse effect upon the value of the system's
7 securities portfolios; covered put and call options on
8 securities; and stock; whether or not the securities,
9 stock, futures contracts, or options on futures are
10 expressly authorized by or qualify under the foregoing
11 paragraphs, and notwithstanding any limitation of any
12 of the foregoing paragraphs (including paragraph (4));
13 and

14 (11) Private placements. Investments in institutional
15 blind pool limited partnerships, limited liability
16 companies, or direct investments that make private
17 debt and equity investments in privately held
18 companies, including but not limited to investments in
19 Hawaii high technology businesses or venture capital
20 investments that, in the informed opinion of the board
21 [~~of trustees~~], are appropriate to invest funds of the
22 system. In evaluating venture capital investments,

1 the board [~~of trustees~~] shall consider, among other
2 things, the impact an investment may have on job
3 creation in Hawaii and on the state economy."

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

6 "**§88-132 Service credit; payment of contributions.** (a)

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

18 (b) The State or county, as the case may be, in whose
19 service the member was employed immediately prior to the
20 member's induction into military service shall [~~, so long as the~~
21 ~~member remains in military service,~~] pay all contributions to
22 the pension accumulation fund and to the annuity savings fund,

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

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

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

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

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

21 (1) The member returns to state or county government
 22 service; or

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

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

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

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



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

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

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

15 **"§88-140 Duration of service member's status.** [~~A service~~
16 ~~member shall continue to be entitled to the benefits of the~~
17 ~~Serviceemen's Act until the expiration of ninety days after the~~
18 ~~termination of the service member's service in the armed forces~~
19 ~~unless the service member shall within the ninety-day period~~
20 ~~have reentered the service of the State or any county, in a~~
21 ~~position which constitutes the service member an employee as~~
22 ~~defined by section 88-21, in which latter event the service~~

1 ~~member's status thenceforth shall be the same as that of any~~
2 ~~other regular member of the system in the service without any~~
3 ~~loss of the service credit preserved and allowed to the service~~
4 ~~member under the Servicemen's Act, or unless the service member~~
5 ~~shall have resigned before the expiration of the ninety-day~~
6 ~~period and waived the service member's right to such~~
7 ~~reemployment. In the event the service member fails to reenter~~
8 ~~the service of the State or any county within the ninety-day~~
9 ~~period, and shall not have resigned from the system and waived~~
10 ~~the service member's right to reemployment, the service member's~~
11 ~~status thereafter shall be the same as that of a regular member~~
12 ~~who terminated the regular member's employment as such an~~
13 ~~employee and such termination shall be deemed to have occurred~~
14 ~~on the ninetieth day after the termination of the service~~
15 ~~member's service in the armed forces.~~

16 ~~A service member who voluntarily extends the service~~
17 ~~member's period of service in the armed forces ninety or more~~
18 ~~days beyond the expiration date of the service member's initial~~
19 ~~enlistment or the period for which the service member was~~
20 ~~inducted or the period for which the service member was ordered~~
21 ~~to active duty shall be deemed to be on the same status as that~~
22 ~~of a regular member who terminates the regular member's~~

~~1 employment as an employee, and the termination shall be deemed~~
~~2 to have occurred on the ninetieth day following the expiration~~
~~3 date of the service member's enlistment or the period for which~~
~~4 the service member was inducted or the period for which the~~
~~5 service member was ordered to active duty.]~~ (a) An active
6 member of the system who leaves active service of the State or
7 any county for the purpose of entering the military service of
8 the United States in time of war or declared national or state
9 emergency, or is called involuntarily to active duty after
10 June 24, 1950, shall be entitled to the benefits of sections
11 88-134, 88-135, and 88-137:

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

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

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

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

21 (b) If a service member resigns from employment by the
22 State or a county and waives the service member's right to



1 reemployment, the service member's status shall be the same as a
2 regular member who terminated the regular member's employment as
3 of the earlier of:

- 4 (1) The effective date of the service member's resignation
5 from employment; or
6 (2) The expiration of the service member's rights under
7 subsection (a)."

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

10 "**§88-251 Applicability.** The following provisions of part
11 II shall apply to this part:

- 12 (1) Subpart A, except the definitions provided in section
13 88-21, unless expressly adopted in section 88-261;
14 (2) Subpart B, except sections 88-45, 88-45.5, 88-46,
15 88-48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and
16 88-62;
17 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,
18 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83,
19 88-84 [~~to~~], 88-85, 88-87 [~~to~~], 88-88, 88-89, 88-96,
20 88-97, and 88-98;
21 (4) Subpart D, except sections 88-112 and 88-113; and
22 (5) Subpart E."

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

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

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

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

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

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



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

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

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

17 SECTION 29. Section 88-283, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§88-283 [Retirement] Election of retirement allowance**
20 **[~~options-~~] option.** (a) Upon retirement, any member may elect
21 to receive the maximum retirement allowance to which the member
22 is entitled, computed in accordance with section 88-282, 88-284,

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

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

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



1 Only one beneficiary shall be designated under options A and B.
 2 The beneficiary designated under option A or B shall be a
 3 natural person, and benefits under option A or B shall only be
 4 paid to a natural person. To receive benefits, the beneficiary
 5 must have been designated by the member in the form and manner
 6 prescribed by the board.

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

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

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

15 (c) No election under this section shall take effect

16 unless:

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

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



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

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

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

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

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

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

- 8 (1) An allowance that would have been payable if the
9 member had retired and had elected to receive a
10 retirement allowance under option B; or
- 11 (2) The allowance under the option selected by the member
12 which would have been payable had the member retired.

13 The effective date of the member's retirement shall be [a] the
14 first day of a month, except for the month of December when the
15 effective date of retirement may be on the first or last day of
16 the month, and shall be no earlier than the later of thirty days
17 from the date the member's retirement application was filed or
18 the day following the member's date of death. The election may
19 not be made if, at the time of the member's death, there are
20 individuals who are eligible to receive death benefits under
21 section 88-286(c) who have made a claim for the benefits;
22 provided that, if the designated beneficiary is an individual

1 eligible to receive benefits under section 88-286(c), the
2 designated beneficiary may receive benefits pursuant to an
3 election under this section pending disposition of the claim for
4 benefits under section 88-286(c). No death benefits will be
5 payable under section 88-286(c) while benefits are paid pursuant
6 to an election made under this section.

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

10 (1) The death benefit under the retirement option selected
11 by the retirant; or

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

18 (h) The increase in the retirant's benefit under options A
19 and B upon the death of the retirant's designated beneficiary
20 shall be effective the first day of the month following the date
21 of death of the designated beneficiary. The retirant shall
22 notify the system in writing and provide a certified copy of the



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

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

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

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

18 (1) For the surviving spouse or reciprocal beneficiary, an
19 allowance equal to one-half of the member's accrued
20 maximum retirement allowance unreduced for age,
21 payable until remarriage, marriage, or entry into a
22 new reciprocal beneficiary relationship, as if the

1 member had retired on the first day of a month
2 following the member's death, except for the month of
3 December when retirement on the first or last day of
4 the month shall be allowed; and for each [~~dependent~~]
5 child under the age of eighteen an allowance equal to
6 ten per cent of the member's accrued maximum
7 retirement allowance unreduced for age, payable until
8 the [~~dependent~~] child attains age eighteen; provided
9 that the aggregate death benefits for all the
10 [~~dependent~~] children under the age of eighteen shall
11 not exceed twenty per cent of the member's accrued
12 retirement allowance unreduced for age; or
13 (2) For the surviving spouse or reciprocal beneficiary, if
14 the member was eligible for retirement at the time of
15 death in service, and death occurred after June 30,
16 1990, an allowance that would have been payable as if
17 the member had retired on the first day of a month
18 following the member's death, except for the month of
19 December when retirement on the first or last day of
20 the month shall be allowed and had elected to receive
21 a retirement allowance under option B of section 88-
22 283; and

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

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

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

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

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

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

1 (B) Three 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 six per cent
5 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; and

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

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

19 (B) Six per cent of the member's average final
20 compensation; provided that the aggregate death
21 benefits for all the [~~dependent~~] children under

1 the age of eighteen shall not exceed twelve per
2 cent of the member's average final compensation.

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

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

8 "~~{}~~**§88-301**~~{}~~ **Applicability.** The following provisions of
9 part II of this chapter shall apply to this part:

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

18 SECTION 32. Section 88-321, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) Any member, except for [~~members~~] a member described
21 in subsection (c), who is in service on June 30, 2006, or who
22 returns to service after June 30, 2006, and has vested benefit

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

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

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

20 (2) A class A or a class B member, who returns to service
21 but does not have vested benefit status as provided in
22 section 88-96(b) and who does not return to service as

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

18 SECTION 33. Section 88-322, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) Class C members who are in service on June 30, 2006,
21 and make the election to become class H members pursuant to
22 section 88-321(a), shall have the option to convert some or all



1 of their class C credited service, as of June 30, 2006, to class
2 H credited service by paying the full actuarial cost of the
3 conversion as of June 30, 2006, in the manner provided in
4 subsection (d). The option to convert class C credited service
5 to class H credited service shall [~~not~~] also apply:

6 (1) To forfeited credit for previous service [~~not~~] that a
7 member is eligible to have restored as of

8 June 30, 2006; [~~or~~] and

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

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

16 (b) All class A and class B credited service of class A or
17 class B members who make the election to become class H members
18 pursuant to section 88-321(a) shall be converted to class H
19 credited service. The cost of the conversion of class A or
20 class B credited service shall be the member's accumulated
21 contributions as of the date of conversion. Verified membership
22 service credit paid for pursuant to section 88-59 under an

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

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

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

1 SECTION 34. Section 88-324, Hawaii Revised Statutes, is
2 amended by amending subsections (c), (d), and (e) to read as
3 follows:

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

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

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

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

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

19 The deductions from compensation or lump sum payment shall be
20 paid to the system and shall be credited to the member's
21 individual account and become part of the member's accumulated
22 contributions.



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

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

11 (e) Except as provided in subsection (f) [+] or in section
12 88-322:

- 13 (1) Class A, class B, or class C credited service shall
14 not be acquired as class H credited service; and
- 15 (2) Class A, class B, or class C credited service shall be
16 restored as class C credited service at the rate of
17 one month of service credit for each month of service
18 rendered following the later of conversion to class H
19 membership or the return to membership as a class H
20 member.

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



1 SECTION 35. Section 88-333, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§88-333~~ **[Retirement] Election of retirement allowance**
4 **[~~options-~~] option.** (a) Upon retirement:

- 5 (1) Any class H member may elect to receive the maximum
6 retirement allowance to which the member is entitled,
7 computed in accordance with the provisions described
8 under section 88-332, 88-335, or 88-337, and if the
9 member elects to receive the maximum retirement
10 allowance, in the event of the member's death, there
11 shall be paid to the member's beneficiary, or
12 otherwise to the member's estate, the difference
13 between the balance of the member's accumulated
14 contributions at the time of the member's retirement
15 and the retirement allowance paid or payable to the
16 member prior to death; or
- 17 (2) In lieu of the maximum allowance to which the member
18 is entitled, computed in accordance with the
19 provisions described under section 88-332, 88-335, or
20 88-337, the member may elect to receive the member's
21 retirement allowance under any one of the ~~[optional]~~



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

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

6 (b) If a class H member dies after the date of the filing
7 of the member's written application to retire but prior to the
8 retirement date designated by the member, and, if the member was
9 eligible to retire on the date of the member's death, the
10 member's designated beneficiary, or otherwise the personal
11 representative of the member's estate, [~~if the member was~~
12 ~~eligible to retire on the date of the member's death,~~] may elect
13 to receive either the death benefit under section 88-338 or the
14 allowance under the option selected by the member that would
15 have been payable had the member retired. The effective date of
16 the member's retirement shall be [a] the first day of a month,
17 except for the month of December when the effective date of
18 retirement may be on the first or last day of the month, and
19 shall be no earlier than the later of thirty days from the date
20 the member's retirement application was filed or the day
21 following the member's date of death.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

6 SECTION 36. Section 88-338, Hawaii Revised Statutes, is
7 amended to read as follows:

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

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

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

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

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

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

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

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

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



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

4 SECTION 37. Section 88-339, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) [~~Upon the receipt by the board of trustees, of proper~~
7 ~~proof of a class H member's death,~~] In the case of an accidental
8 death as determined by the board 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 proof~~
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 88-338 [~~, effective on the~~
20 ~~first day of a month following the member's death, except for~~
21 ~~the month of December when benefits shall be effective on the~~

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

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

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

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

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

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

10 SECTION 38. Section 88-341, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

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

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

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

4 Regular interest shall be credited to the former employee's
5 account until the former employee's accumulated contributions
6 are withdrawn; provided that the former employee's membership
7 shall not continue after the fourth full year following the
8 calendar year in which the individual's employment terminates.

9 If the former employee does not become an employee again and has
10 not withdrawn the former employee's accumulated contributions,
11 the system shall return the former employee's accumulated
12 contributions to the former employee as soon as possible after
13 the former employee attains age sixty-two."

14 SECTION 39. Section 88-344, Hawaii Revised Statutes, is
15 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 40. Section 88-261, Hawaii Revised Statutes, is
6 amended by repealing the definitions of "accidental death" and
7 of "ordinary death".

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

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

15 SECTION 41. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 42. This Act shall take effect on July 1, 2006;
18 provided that section 26 shall take effect retroactive to
19 July 1, 2003, sections 31 and 38 shall take effect retroactive
20 to July 1, 2004, section 32 shall take effect retroactive to
21 January 1, 2006, and sections 33 and 34 shall take effect on
22 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 contributory plan members and returning nonvested contributory plan members whose ERS accumulated contribution balances are \$1,000 or more to leave their contributions in the system until they reach age 62. (SD1)

