
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 as follows:

20 1. By amending the definition of "beneficiary" to read:
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 2. By amending the definition of "retirement allowance" to
4 read:

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

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

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



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

3 "(a) Notwithstanding any other law to the contrary, any
4 judge who retires under section 88-61(c) and continues in
5 service as a judge shall be allowed membership in the system and
6 entitlement to membership service credit for any eligible class
7 A service; provided that [~~such~~] the membership service shall be
8 credited in accordance with section 88-59; and provided further
9 that when the judge retires, it shall be as if it were for the
10 first time, and sections [~~88-73(1),~~] 88-73(a), 88-74(3), and
11 88-76 shall be used to determine the retirement allowance."

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

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

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

21 "(c) The membership of an elective officer or judge in the
22 system may be terminated upon election of the member to retire



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

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

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



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



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

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

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



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

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

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

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



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

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

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

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

19 (2) The tax-qualified pension benefit that would be
20 payable at the earliest age the member could retire
21 with an unreduced benefit, based on the member's years
22 of credited service and the member's class of service

1 as of June 30, 2004, and the member's average final
2 compensation as limited by section 401(a)(17) as of
3 the earliest age the member could retire with an
4 unreduced benefit, or, upon the member's termination
5 of service, if earlier."

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

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

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



1 Option 1: The member may elect to receive a lesser
2 retirement allowance during the member's lifetime. At the
3 member's retirement, there shall be established an amount of
4 initial insurance that shall be computed on the basis of
5 actuarial factors adopted by the board [~~of trustees~~]. Upon the
6 death of the retirant, any balance remaining in the initial
7 insurance reserve, after deducting the retirement allowance paid
8 to the retirant prior to death, shall be paid to the retirant's
9 beneficiary, otherwise to the retirant's estate. In lieu of the
10 lump sum balance, the beneficiary may elect to receive an
11 allowance for life based on the value of the balance; provided
12 that the allowance is not less than \$100 per month.

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



1 dies at any time after the retirant retired, but before the
2 death of the retirant, the retirant, upon the death of the
3 retirant's beneficiary, shall receive a retirement allowance,
4 including cumulative post retirement allowances, calculated as
5 if the retirant had selected the maximum retirement allowance to
6 which the member is entitled. Only one beneficiary shall be
7 designated under this option. The beneficiary designated under
8 this option shall be a natural person, and benefits under this
9 option shall only be paid to a natural person.

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



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

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

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



1 credited service or for disability may elect this mode of
2 retirement.

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

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

9 (b) In the event of the death of a member after the date
10 of the filing of the member's written application to retire, but
11 prior to the retirement date designated by the member, and, if
12 the member was eligible to retire on the date of the member's
13 death, the member's designated beneficiary~~[, if the member was~~
14 ~~eligible to retire on the date of the [member's] death,~~] may
15 elect to receive either death benefits under section 88-84 or
16 the allowance under the option selected by the member that would
17 have been payable had the member retired. The effective date of
18 the member's retirement shall be [a] the first day of a month,
19 except for the month of December when the effective date of
20 retirement may be on the first or last day of the month, and
21 shall be no earlier than the later of thirty days from the date
22 the member's retirement application was filed or the day



1 following the member's date of death. The election may not be
2 made if, at the time of the member's death, there are
3 individuals who are eligible to receive death benefits under
4 section 88-85 who have made a claim for the benefits; provided
5 that, if the designated beneficiary is an individual eligible to
6 receive benefits under section 88-85, the designated beneficiary
7 may receive benefits pursuant to an election made under this
8 section pending disposition of the claim for benefits under
9 section 88-85.

10 (c) No election under this section shall take effect
11 unless:

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

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

17 (B) Provides information indicating the effect of the
18 election; and

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



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

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

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

8 (B) The spouse or reciprocal beneficiary cannot be
9 located;

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

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



1 a member as to whether the member has a spouse or
2 reciprocal beneficiary and the name and address
3 of the member's spouse or reciprocal beneficiary.

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

7 (1) The terms and conditions of the various benefit
8 options;

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

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

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

17 (f) In the event of the death of the retirant within one
18 year after the date of retirement, the retirant's designated
19 beneficiary may elect to receive either the death benefit under
20 the retirement allowance option selected by the retirant, or
21 [~~such~~] the benefits as would have been paid under section 88-84

1 had the retirant died immediately prior to retirement, less any
2 payments which the retirant received.

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

13 (h) Upon a member's retirement:

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

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

19 (A) Option 2 or 3;

20 (B) An option that includes option 2 or 3 in
21 combination with some other form of benefit
22 payment; or



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

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

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

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



1 credited service, the amount, together with the
2 member's accumulated contributions shall not be less
3 than one hundred per cent of the compensation;

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

16 (3) If the member was eligible for service retirement at
17 the time of death in service, the member's designated
18 beneficiary may elect to receive in lieu of any other
19 payment provided in this section, the allowance that
20 would have been payable as if the member had retired
21 on the first day of a month following the member's
22 death, except for the month of December when



1 retirement on the first or last day of the month shall
2 be allowed. Benefits payable under this paragraph
3 shall be calculated under option 2 of section 88-83.

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

7 (1) To the surviving spouse or reciprocal beneficiary, a
8 benefit as specified under subsection (a)(1), (2), or
9 (3);

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

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

19 (c) For the purposes of this section, a year round school
20 employee shall be considered in service during the July and
21 August preceding a transfer to a traditional school schedule if



1 the employee was in service for the entire prior school year and
2 has a contract for the upcoming traditional school year.

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

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

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



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

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

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

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



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

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

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

15 "~~§88-85.5 [Accidental death claims.]~~ Applications for
 16 accidental death benefits; approval by the board. (a) An
 17 application for service-connected accidental death benefits may
 18 be filed with the system by or on behalf of the claimant [~~as~~
 19 ~~specified in sections]~~ pursuant to section 88-85, 88-286, [and]
 20 or 88-339[~~7~~], on a form provided by the system. The application
 21 shall be filed no later than [~~two~~] three years from the date of

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

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

6 (1) A copy of the employer's report of the accident
7 submitted by the employer to the department of labor
8 and industrial relations, workers' compensation
9 division, and other reports relating to the accident;

10 (2) A certified statement from the head of the department
11 in which the deceased member was employed, stating the
12 date, time, and place of the accident, and the nature
13 of the service being performed when the accident
14 occurred. The statement shall also include an opinion
15 as to whether or not the accident was the result of
16 wilful negligence on the deceased member's part;

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

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

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

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

1 ~~definite time and place while the member was in the actual~~
2 ~~performance of duty, or that the death was due to the result of~~
3 ~~some occupational hazard, the board shall decide that the death~~
4 ~~was the result of an accident in the performance of duty and not~~
5 ~~caused by wilful negligence on the part of the member.] Upon the
6 system's receipt of the application and documents specified in
7 subsection (b), the medical board shall determine and certify to
8 the board whether the member's death was an accidental death as
9 defined in section 88-21.~~

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

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

15 (2) A finding by the medical board.

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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



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

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

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

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

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



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

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

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

21 (B) For members with three or more years of credited
22 service during the member's period of

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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



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

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

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

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



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

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

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



1 lands pursuant to section 214(b) of the Hawaiian
 2 Homes Commission Act, 1920; and
 3 (G) Obligations secured by second mortgages on
 4 improved real estate for which the mortgagor
 5 procures a second mortgage on the improved real
 6 estate for the purpose of acquiring the
 7 leaseholder's fee simple interest in the improved
 8 real estate; provided that any prior mortgage
 9 does not contain provisions that might jeopardize
 10 the security position of the retirement system or
 11 the borrower's ability to repay the mortgage
 12 loan.

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

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

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

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

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



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



1 time the investment is made at least fifteen per cent
2 more than the amount of the respective obligations;

3 (8) Insurance company obligations. Contracts and
4 agreements supplemental thereto providing for
5 participation in one or more accounts of a life
6 insurance company authorized to do business in Hawaii,
7 including its separate accounts, and whether the
8 investments allocated thereto are comprised of stocks
9 or other securities or of real or personal property or
10 interests therein;

11 (9) Interests in real property. Interests in improved or
12 productive real property in which, in the informed
13 opinion of the board [~~of trustees~~], it is prudent to
14 invest funds of the system. For purposes of this
15 paragraph, "real property" includes any property
16 treated as real property either by local law or for
17 federal income tax purposes. Investments in improved
18 or productive real property may be made directly or
19 through pooled funds, including common or collective
20 trust funds of banks and trust companies, group or
21 unit trusts, limited partnerships, limited liability
22 companies, investment trusts, title-holding



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

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



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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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



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

3 ~~A service member who voluntarily extends the service~~
4 ~~member's period of service in the armed forces ninety or more~~
5 ~~days beyond the expiration date of the service member's initial~~
6 ~~enlistment or the period for which the service member was~~
7 ~~inducted or the period for which the service member was ordered~~
8 ~~to active duty shall be deemed to be on the same status as that~~
9 ~~of a regular member who terminates the regular member's~~
10 ~~employment as an employee, and the termination shall be deemed~~
11 ~~to have occurred on the ninetieth day following the expiration~~
12 ~~date of the service member's enlistment or the period for which~~
13 ~~the service member was inducted or the period for which the~~
14 ~~service member was ordered to active duty.] (a) An active~~
15 ~~member of the system who leaves active service of the State or~~
16 ~~any county for the purpose of entering the military service of~~
17 ~~the United States in time of war or declared national or state~~
18 ~~emergency, or is called involuntarily to active duty after~~
19 ~~June 24, 1950, shall be entitled to the benefits of sections~~
20 ~~88-134, 88-135, and 88-137:~~



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

3 and

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

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

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

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

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

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

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

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



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

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

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



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

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

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



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

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



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

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

8 "§88-283 [Retirement] Election of retirement allowance
9 [options.] option. (a) Upon retirement, any member may elect
10 to receive the maximum retirement allowance to which the member
11 is entitled, computed in accordance with section 88-282, 88-284,
12 or 88-285, and, if the member elects to receive the maximum
13 retirement allowance, the member's beneficiary shall not be
14 entitled to any benefit upon the member's death, except as
15 provided in subsection (g). In lieu of the maximum retirement
16 allowance [~~described in sections 88-282, 88-284, and 88-285~~], a
17 member may elect to receive the member's retirement allowance
18 under one of the options described below, which shall be
19 actuarially equivalent to the maximum retirement allowance:

20 (1) Option A: A reduced allowance payable to the member,
21 then upon the member's death, one-half of the
22 allowance, including fifty per cent of all cumulative



1 post retirement allowances, to the member's
2 beneficiary designated by the member at the time of
3 retirement, for the life of the beneficiary; provided
4 that for members retiring after November 30, 2004, in
5 the event that the retirant's designated beneficiary
6 dies at any time after the retirant retired, but
7 before the death of the retirant, the retirant, upon
8 the death of the retirant's designated beneficiary,
9 shall receive a retirement allowance, including
10 cumulative post retirement allowances, calculated as
11 if the retirant had selected the maximum retirement
12 allowance to which the retirant is entitled;

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



1 retirant's designated beneficiary, shall receive a
2 retirement allowance, including cumulative post
3 retirement allowances, calculated as if the retirant
4 had selected the maximum retirement allowance to which
5 the retirant is entitled; or

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

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

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

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



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

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

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

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

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

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

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

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

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



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 shall rely upon the representations made
16 by a member as to whether the member has a spouse
17 or reciprocal beneficiary and the name and
18 address of the member's spouse or reciprocal
19 beneficiary.

20 (d) Each member, within a reasonable period of time before
21 the member's retirement date, shall be provided a written
22 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 a member after the date
12 of the filing of the member's written application to retire, but
13 prior to the retirement date designated by the member, and, if
14 the member was eligible to retire on the date of the member's
15 death, the member's designated beneficiary[, ~~if the member was~~
16 ~~eligible to retire on the date of the member's death,~~] may elect
17 to receive either:

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

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



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

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

20 (1) The death benefit under the retirement option selected
21 by the retirant; or



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

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

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

20 "(a) The surviving spouse or reciprocal beneficiary and
 21 ~~[dependent child or]~~ children under the age of eighteen of a
 22 member at the time of the member's death shall be eligible for a



1 death benefit if the member suffers either an ordinary death
2 while in service or on authorized leave without pay after
3 accumulating ten years of credited service or an accidental
4 death.

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

7 (1) For the surviving spouse or reciprocal beneficiary, an
8 allowance equal to one-half of the member's accrued
9 maximum retirement allowance unreduced for age,
10 payable until remarriage, marriage, or entry into a
11 new reciprocal beneficiary relationship, as if the
12 member had retired on the first day of a month
13 following the member's death, except for the month of
14 December when retirement on the first or last day of
15 the month shall be allowed; and for each [~~dependent~~]
16 child under the age of eighteen an allowance equal to
17 ten per cent of the member's accrued maximum
18 retirement allowance unreduced for age, payable until
19 the [~~dependent~~] child attains age eighteen; provided
20 that the aggregate death benefits for all the
21 [~~dependent~~] children under the age of eighteen shall



- 1 not exceed twenty per cent of the member's accrued
2 retirement allowance unreduced for age; or
- 3 (2) For the surviving spouse or reciprocal beneficiary, if
4 the member was eligible for retirement at the time of
5 death in service, and death occurred after June 30,
6 1990, an allowance that would have been payable as if
7 the member had retired on the first day of a month
8 following the member's death, except for the month of
9 December when retirement on the first or last day of
10 the month shall be allowed and had elected to receive
11 a retirement allowance under option B of section 88-
12 283; and
- 13 (3) If there is no surviving spouse or reciprocal
14 beneficiary, each [~~dependent~~] child under the age of
15 eighteen shall receive an allowance equal to twenty
16 per cent of the member's accrued maximum retirement
17 allowance unreduced for age, payable on the first day
18 of a month following the member's death, except for
19 the month of December when retirement on the first or
20 last day of the month shall be allowed, until the
21 [~~dependent~~] child attains age eighteen; provided that
22 the aggregate death benefits for all the [~~dependent~~]



1 children under the age of eighteen shall not exceed
2 forty per cent of the member's accrued maximum
3 retirement allowance unreduced for age.

4 For the purpose of determining eligibility for the ordinary
5 death benefit, a year round school employee shall be considered
6 in service during the July and August preceding a transfer to a
7 traditional school schedule if the employee was in service for
8 the entire prior school year and has a contract for the upcoming
9 traditional school year. The application for ordinary death
10 benefits shall be filed no later than three years from the date
11 of the member's death.

12 (c) In the case of accidental death[7] as determined by
13 the board pursuant to section 88-85.5, the death benefit shall
14 be effective on the first day of [a] the month following the
15 member's death, except for the month of December when retirement
16 on the first or last day of the month shall be allowed, as
17 follows:

18 (1) For the surviving spouse or reciprocal beneficiary, an
19 allowance equal to thirty per cent of the member's
20 average final compensation, payable until remarriage,
21 marriage, or upon entry into a new reciprocal
22 beneficiary relationship;



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

5 (A) Ten per cent of the member's accrued maximum
6 retirement allowance unreduced for age; provided
7 that the aggregate death benefits for all the
8 [~~dependent~~] children under the age of eighteen
9 shall not exceed twenty per cent of the member's
10 accrued maximum retirement allowance unreduced
11 for age; or

12 (B) Three per cent of the member's average final
13 compensation; provided that the aggregate death
14 benefits for all the [~~dependent~~] children under
15 the age of eighteen shall not exceed six per cent
16 of the member's average final compensation.

17 The death benefit under this paragraph shall be
18 payable to each [~~dependent~~] child until the
19 [~~dependent~~] child attains age eighteen; and

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

1 (A) Twenty per cent of the member's accrued maximum
 2 retirement allowance unreduced for age; provided
 3 that the aggregate death benefits for all the
 4 [~~dependent~~] children under the age of eighteen
 5 shall not exceed forty per cent of the member's
 6 accrued maximum retirement allowance unreduced
 7 for age; or

8 (B) Six per cent of the member's average final
 9 compensation; provided that the aggregate death
 10 benefits for all the [~~dependent~~] children under
 11 the age of eighteen shall not exceed twelve per
 12 cent of the member's average final compensation.

13 The death benefit under this paragraph shall be
 14 payable to each [~~dependent~~] child until the
 15 [~~dependent~~] child attains age eighteen."

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

18 "[~~§~~§88-301[~~§~~] **Applicability.** The following provisions of
 19 part II of this chapter shall apply to this part:

- 20 (1) Subpart A;
- 21 (2) Subpart B, except sections 88-45, 88-46, 88-48, 88-52,
 22 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;



1 (3) Subpart C, except sections 88-71 [~~to~~], 88-72, 88-73,
2 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83,
3 88-84, 88-85, 88-88, 88-89, 88-96, 88-97, and 88-98;

4 (4) Subpart D; and

5 (5) Subpart E."

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

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



1 returning to service. The election shall be made by members
2 entering or returning to service after [~~February 28,~~] June 30,
3 2006, within thirty days of entering or returning to service.
4 The election shall be irrevocable."

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

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

9 (1) A class C member who returns to service and who does
10 not return to service as a class A or a class B member
11 shall become a class H member upon return to service;
12 provided that, if the member is a former class A or
13 class B member who received a refund of contributions
14 picked up and paid by the member's employer pursuant
15 to section 88-46(b), the member may not become a class
16 H member and shall return to service as a class C
17 member, unless the refund was made pursuant to section
18 88-96 or 88-271(b); and

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



1 member upon return to service [~~The system shall~~
2 ~~return to the member the member's accumulated~~
3 ~~contributions]~~ and the member's credited service as a
4 class A or B member shall be converted to class C
5 credited service. The system shall return to the
6 member the member's accumulated contributions if the
7 member's accumulated contributions are \$1,000 or less
8 at the time of distribution. If the member's
9 accumulated contributions for the class A or B
10 credited service that was converted to class C
11 credited service are greater than \$1,000 and the
12 member does not make written application,
13 contemporaneously with the member's return to service,
14 for return of such contributions, the member, except
15 as provided by section 88-341, may not withdraw the
16 member's accumulated contributions for the class A or
17 B credited service that was converted to class C
18 credited service until the member retires or attains
19 age sixty-two."

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



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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

4 "~~§88-333~~ **[Retirement]** Election of retirement allowance

5 ~~[options-]~~ option. (a) Upon retirement:

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

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



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

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

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



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

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

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

10 (2) The member's designation of a beneficiary shall be
11 irrevocable if the retirement 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 37. 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 38. 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 effective on the first day of the month
7 following the member's death, except for the month of December,
8 when benefits shall be effective on the first or last day of the
9 month."

10 SECTION 39. 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 [~~shall~~],
14 excluding unused sick leave, upon application to the board,
15 shall be paid all of the former employee's accumulated
16 contributions, and the former employee's membership shall
17 thereupon terminate and all credited service shall be forfeited;
18 provided that [~~any such~~] an individual shall not be paid the
19 individual's accumulated 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 40. 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 41. 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 42. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 43. 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 39 shall take effect retroactive
20 to July 1, 2004, section 32 shall take effect retroactive to
21 January 1, 2006, and sections 34 and 35 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 nonvested contributory plan members whose accumulated contributions are more than \$1,000 to withdraw these funds upon their return to service. Allows noncontributory plan members hired or returning to service from 3/1/06 through 6/30/06 to elect to join the hybrid plan. (SD2)

