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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. Section 88-75, Hawaii Revised Statutes, is  
2 amended to read as follows:

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

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

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

14 (3) The member should be retired.

15 (b) Notwithstanding the requirement of subsection (a)(1),  
16 if a member has been diagnosed with, and at the time of applying  
17 for ordinary disability retirement, suffers from the symptoms of  
18 an incurable debilitating disease that has not progressed to the



1 extent that the member's physical or mental condition has  
2 deteriorated so as to require the member to immediately retire,  
3 the medical board shall render a decision on the member's  
4 eligibility for retirement within thirty days of the medical  
5 board's receipt of a written statement, from the member's  
6 primary care physician or a physician who specializes in the  
7 diagnosis of the incurable debilitating disease, certifying that  
8 the member has been diagnosed with, and at the time of the  
9 ordinary disability retirement application, suffers from the  
10 symptoms of an incurable debilitating disease. Within thirty  
11 days of the medical board's decision on whether a member's  
12 medical condition qualifies as an incurable debilitating  
13 disease, the system shall render a decision on the member's  
14 retirement application and notify the member of the system's  
15 decision.

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

21 For the purposes of this section, "incurable debilitating  
22 disease" means a disease that:



1        (1) Is contracted by a member and the diagnosis of the  
 2        disease is certified in writing by the member's  
 3        primary care physician or a physician who specializes  
 4        in the diagnosis of the incurable debilitating  
 5        disease;

6        (2) Causes the member to lose the ability to adequately  
 7        perform the duties described in the member's job  
 8        description; and

9        (3) Results in either the eventual death or total  
 10       incapacity of the member.

11       Nothing in this subsection shall be construed to absolve a  
 12       member from complying with the retirement application process  
 13       requirements of this section.

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

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

1           **"§88-284 Ordinary disability retirement.** (a) Upon  
2 application of a member in service or on leave without pay, or  
3 the person appointed by the family court as guardian of an  
4 incapacitated member, any member who has ten or more years of  
5 credited service shall be retired by the board of trustees on an  
6 ordinary disability retirement allowance if the medical board,  
7 after a medical examination of the member, certifies that:

8           (1) The member is mentally or physically incapacitated for  
9           the further performance of duty at the time of  
10           application;

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

12           (3) The member should be retired.

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

1 the member suffers from an incurable debilitating disease.  
2 Within thirty days of the medical board's decision on whether a  
3 member's medical condition qualifies as an incurable  
4 debilitating disease, the system shall render a decision on the  
5 member's retirement application and notify the member of the  
6 system's decision.

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

12 For the purposes of this section, "incurable debilitating  
13 disease" means a disease that:

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

19 (2) Causes the member to lose the ability to adequately  
20 perform the duties described in the member's job  
21 description; and

1        (3) Results in either the eventual death or total  
2                    incapacity of the member.

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

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

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

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









1        (3) Results in either the eventual death or total  
2                    incapacity of the member.

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

6        [~~b~~] (d) Upon approval by the board, the member shall  
7 receive an ordinary disability retirement benefit no earlier  
8 than thirty days from the date the application was filed or the  
9 date the member terminated service, whichever is later.

10 Retirement shall become effective on the first day of a month,  
11 except for the month of December when retirement on the first or  
12 last day of the month shall be allowed."

13        SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15        SECTION 5. This Act shall take effect upon its approval.

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**SB. NO. 3012**

**Report Title:**

Employees' Retirement System; Ordinary Disability Retirement

**Description:**

Enables a member of the Employees' Retirement System who suffers from an incurable debilitating disease to qualify for ordinary disability retirement and to continue working until they are unable to do so.

