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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. Chapter 88, Hawaii Revised Statutes, is amended  
2 by adding a new section to part II to be appropriately  
3 designated and to read as follows:

4           "§88- Information from the State and counties. To  
5 fulfill its responsibilities under this chapter, the system may  
6 require any department or agency of the State or counties to  
7 furnish information to the system to carry out the purposes of  
8 this chapter. The system may specify the format in which the  
9 information shall be furnished. Without limitation of the  
10 foregoing, the system may require that information be furnished  
11 in electronic format and that information with respect to  
12 payroll and personnel transactions:

13           (1) Allocate payments, including bonuses, salary  
14           adjustments, payments for compensatory time, and  
15           workers' compensation, to monthly or other periods as  
16           requested by the system; and

17           (2) Specify the purpose or nature of the payment."



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

3 "§88-6 Payment of refunds and retirement benefits. (a)

4 Notwithstanding any other provision of this chapter:

5 (1) All retirees and beneficiaries of the state retirement  
6 system or county pension funds shall be paid  
7 semimonthly; and effective January 1, 2003, all  
8 retirees and beneficiaries of the state retirement  
9 system who either retire or become beneficiaries after  
10 January 1, 2003, shall be paid monthly; and

11 (2) Any [~~retiree~~] retirant or beneficiary whose benefit  
12 commences after June 30, 2001, shall designate a  
13 financial institution account into which the system  
14 shall be authorized to deposit their retirement  
15 benefit. This method of payment may be waived by the  
16 system if another method is determined to be more  
17 appropriate.

18 (b) Any member, former employee, retirant, or beneficiary  
19 to whom accumulated contributions or a hypothetical account  
20 balance, as defined in section 88-311, is payable after June 30,  
21 2008, shall, if the payment will be greater than \$250 and the  
22 member, former employee, retirant, or beneficiary does not elect



1 to rollover the payment into an eligible retirement plan,  
2 designate a financial institution account into which the system  
3 shall be authorized to deposit the payment. This method of  
4 payment may be waived by the system if another method is  
5 determined to be more appropriate."

6 SECTION 3. Section 88-21, Hawaii Revised Statutes, is  
7 amended by amending the definitions of "beneficiary" and  
8 "service" to read as follows:

9 "Beneficiary": the recipient of any benefit from the  
10 system or, as [+]the[+] context may indicate, the person or  
11 persons designated by a member, former member, or retirant, or  
12 as provided by law to receive the benefits payable in the event  
13 of the member's, former member's, or retirant's death.

14 "Service": service as an employee paid by the State or  
15 county, and also: service during the period of a leave of  
16 absence or exchange if the individual is paid by the State or  
17 county during the period of the leave of absence or exchange [~~or~~  
18 ~~if the individual is not paid by the State or county during the~~  
19 ~~period of the leave of absence but~~]; and service during the  
20 period of an unpaid leave of absence or exchange if the  
21 individual is engaged in the performance of a governmental  
22 function or [~~or~~] if the unpaid leave of absence is an approved



1 leave of absence for professional improvement [~~with or~~];  
2 provided that, for the period of the leave of absence or  
3 exchange without pay [and], the individual makes the same  
4 contribution to the system as the individual would have made if  
5 the individual had not been on [~~such~~] the leave of absence.  
6 Cafeteria managers and cafeteria workers shall be considered as  
7 paid by the State, regardless of the source of funds from which  
8 they are paid."

9 SECTION 4. Section 88-83.5, Hawaii Revised Statutes, is  
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) Notwithstanding any other law to the contrary, the  
13 benefits payable to all employees who first become members on or  
14 after January 1, 1990, shall be subject to the limitations set  
15 forth in [~~section~~] Section 415 of the Internal Revenue Code of  
16 1986, as amended[-], applicable to governmental plans. The  
17 dollar limit in Section 415(b)(1)(A) of the Internal Revenue  
18 Code of 1986, as amended, shall be adjusted automatically under  
19 Section 415(d) of the Internal Revenue Code of 1986, as amended,  
20 effective January 1 of each year, as published in the Internal  
21 Revenue Bulletin. The automatic adjustment shall apply to  
22 members, former employees, retirants, and beneficiaries."



1           2.    By amending subsection (c) to read:

2           " (c)   The system shall establish a benefit restoration plan  
3 for the payment of retirement benefits as permitted under  
4 [~~section~~] Section 415(m) of the Internal Revenue Code of 1986,  
5 as amended, as follows:

6           (1)   All [~~retired members~~] retirants and beneficiaries of  
7           the system whose pension has been limited by [~~section~~]  
8           Section 415 of the Internal Revenue Code shall receive  
9           a monthly benefit from the plan established pursuant  
10          to this subsection that is equal to the difference  
11          between the retirement benefit otherwise payable and  
12          the retirement benefit payable because of [~~section~~]  
13          Section 415 of the Internal Revenue Code of 1986, as  
14          amended;

15          (2)   Participation in the plan shall be determined for each  
16          plan year and shall cease whenever the retirement  
17          benefit is not limited by [~~section~~] Section 415 of the  
18          Internal Revenue Code of 1986, as amended;

19          (3)   The plan shall be funded on a plan-year-to-plan-year  
20          basis and shall not be used to pay any benefits  
21          payable in future years. Upon the recommendation of  
22          the system's actuary, the required contribution amount



1 shall be determined by the board [~~of trustees~~] and  
2 deposited in a separate fund from an allocation of  
3 employer contribution amounts pursuant to this  
4 chapter;

5 (4) The board [~~of trustee~~] shall administer the plan and  
6 may make modifications to the benefits payable as may  
7 be necessary to maintain the qualified status of the  
8 plan under [~~section~~] Section 415(m) of the Internal  
9 Revenue Code of 1986, as amended."

10 SECTION 5. Section 88-141, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§88-141 Computation of compensation earned or earnable.**

13 In any case where it shall become necessary, for the purposes of  
14 sections 88-131 to 88-142, to determine the compensation or  
15 average compensation of a member of the system during any period  
16 of the member's service in the armed forces, or during any  
17 period [~~(not exceeding ninety days)~~] immediately thereafter  
18 while the member was not an employee as defined in section 88-  
19 21, the member's rate of compensation during [~~any such~~] the  
20 period shall, for the purposes of sections 88-131 to 88-142, be  
21 deemed to have been that which the member [~~was receiving as such~~  
22 ~~an employee immediately prior to the inception of~~] would have



1 received but for the member's service in the armed forces  
2 [~~without any of the additional increments for length of service~~  
3 ~~provided for by any classification or other law~~]."

4 SECTION 6. Section 88-286, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) The surviving spouse or reciprocal beneficiary and  
7 children under the age of eighteen of a member at the time of  
8 the member's death shall be eligible for a death benefit if the  
9 member suffers either [~~an~~]:

10 (1) An ordinary death [~~while in service or on authorized~~  
11 ~~leave without pay~~] after accumulating ten years of  
12 credited service and the member dies:

13 (A) While in service; or [~~an~~]

14 (B) While on authorized leave without pay; or

15 (2) An accidental death."

16 SECTION 7. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2008;  
19 provided that section 1 shall take effect on July 1, 2010.



**Report Title:**

ERS; Information from Employers; Direct Deposit of Refunds

**Description:**

Requires government employers to provide information to the ERS electronically. Provides for direct deposit of refunds and other lump sum payments. Clarifies that contributions for unpaid leaves are required for service credit. Conforms provision re compensation of ERS member on military leave to USERRA. (SB3004 HD1)

