
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 88-45.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]§88-45.5[+]~~ **Acceptance of rollovers and transfers from**
12 **other plans.** [~~Subject to rules adopted by the board of~~
13 ~~trustees, the system shall~~] The system may accept an eligible
14 rollover distribution or a direct transfer of funds from
15 [~~another qualified plan~~]:

16 (1) A tax-qualified retirement plan described in Section
17 401(a) of the Internal Revenue Code of 1986, as
18 amended;

19 (2) An annuity plan described in Section 403(a) of the
20 Internal Revenue Code of 1986, as amended;

21 (3) An annuity contract described in Section 403(b) of the
22 Internal Revenue Code of 1986, as amended;



1 (4) An individual retirement account described in Section
2 408(a) of the Internal Revenue Code of 1986, as
3 amended;

4 (5) An individual retirement annuity described in Section
5 408(b) of the Internal Revenue Code of 1986, as
6 amended; or

7 (6) An eligible deferred compensation plan described in
8 Section 457(b) of the Internal Revenue Code of 1986,
9 as amended, that is established and maintained by a
10 state, a political subdivision of a state, or any
11 agency or instrumentality of a state or political
12 subdivision of a state,

13 in payment of all or a portion of any deposit a member is
14 permitted to make with the system for credit for service,
15 including the conversion of class C credited service to class H
16 credited service. ~~[The]~~ Any rules adopted by the board ~~[of~~
17 ~~trustees]~~ pursuant to this section shall condition the
18 acceptance of a rollover or transfer from another plan on the
19 receipt from the other plan of information necessary to enable
20 the system to determine the eligibility of any transferred funds
21 for tax-free rollover treatment or ~~[other]~~ tax-free transfer
22 treatment under federal income tax law."



1 SECTION 5. Section 88-83.5, Hawaii Revised Statutes, is
2 amended as follows:

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

4 "(a) Notwithstanding any other law to the contrary, the
5 benefits payable to all employees who first become members on or
6 after January 1, 1990, shall be subject to the limitations set
7 forth in [~~section~~] Section 415 of the Internal Revenue Code of
8 1986, as amended[~~-~~], applicable to governmental plans. The
9 dollar limit in Section 415(b)(1)(A) of the Internal Revenue
10 Code of 1986, as amended, shall be adjusted automatically under
11 Section 415(d) of the Internal Revenue Code of 1986, as amended,
12 effective January 1 of each year, as published in the Internal
13 Revenue Bulletin. The automatic adjustment shall apply to
14 members, former employees, retirants, and beneficiaries."

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

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

20 (1) All [~~retired members~~] retirants and beneficiaries of
21 the system whose pension has been limited by [~~section~~]
22 Section 415 of the Internal Revenue Code shall receive



1 a monthly benefit from the plan established pursuant
2 to this subsection that is equal to the difference
3 between the retirement benefit otherwise payable and
4 the retirement benefit payable because of [~~section~~]
5 Section 415 of the Internal Revenue Code of 1986, as
6 amended;

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

11 (3) The plan shall be funded on a plan-year-to-plan-year
12 basis and shall not be used to pay any benefits
13 payable in future years. Upon the recommendation of
14 the system's actuary, the required contribution amount
15 shall be determined by the board [~~of trustees~~] and
16 deposited in a separate fund from an allocation of
17 employer contribution amounts pursuant to this
18 chapter;

19 (4) The board [~~of trustee~~] shall administer the plan and
20 may make modifications to the benefits payable as may
21 be necessary to maintain the qualified status of the



1 plan under ~~[section]~~ Section 415(m) of the Internal
2 Revenue Code of 1986, as amended."

3 SECTION 6. Section 88-141, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§88-141 Computation of compensation earned or earnable.**

6 In any case where it shall become necessary, for the purposes of
7 sections 88-131 to 88-142, to determine the compensation or
8 average compensation of a member of the system during any period
9 of the member's service in the armed forces, or during any
10 period [~~(not exceeding ninety days)~~] immediately thereafter
11 while the member was not an employee as defined in section 88-
12 21, the member's rate of compensation during [~~any such~~] the
13 period shall, for the purposes of sections 88-131 to 88-142, be
14 deemed to have been that which the member [~~was receiving as such~~
15 ~~an employee immediately prior to the inception of~~] would have
16 received but for the member's service in the armed forces
17 [~~without any of the additional increments for length of service~~
18 ~~provided for by any classification or other law~~]."

19 SECTION 7. Section 88-286, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) The surviving spouse or reciprocal beneficiary and
22 children under the age of eighteen of a member at the time of



1 the member's death shall be eligible for a death benefit if the
2 member suffers either ~~[an]~~:

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

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

7 (B) While on authorized leave without pay;

8 or

9 (2) An accidental death."

10 SECTION 8. Section 88-321, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

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



1 member returns to the member's regular employment with the State
2 or a county to make the election. The election shall be made by
3 members entering or returning to service from March 1, 2006,
4 through June 30, 2006, within sixty days of entering or
5 returning to service. [~~The election shall be made by members~~
6 ~~entering or returning to service after June 30, 2006, within~~
7 ~~thirty days of entering or returning to service.~~] The election
8 shall be irrevocable.

9 (b) Notwithstanding any other law to the contrary[~~, after~~
10 ~~June 30, 2006~~]:

11 (1) A class C member who returns to service after June 30,
12 2006, and who does not return to service as a class A
13 or a class B member shall become a class H member upon
14 return to service; provided that, if the member is a
15 former class A or class B member who received a refund
16 of contributions picked up and paid by the member's
17 employer pursuant to section 88-46(b), the member may
18 not become a class H member and shall return to
19 service as a class C member, unless the refund was
20 made pursuant to section 88-96 or 88-271(b); [~~and~~]

21 (2) A class A or a class B member, who returns to service
22 after June 30, 2006, but does not have vested benefit



1 status as provided in section 88-96(b) and who does
2 not return to service as a class A or class B member,
3 shall become a class H member upon return to service
4 and the member's credited service as a class A or B
5 member shall be converted to class C credited service.
6 The system shall return to the member the member's
7 accumulated contributions if the member's accumulated
8 contributions are \$1,000 or less at the time of
9 distribution. If the member's accumulated
10 contributions for the class A or B credited service
11 that was converted to class C credited service are
12 greater than \$1,000 and the member does not make
13 written application, contemporaneously with the
14 member's return to service, for return of such
15 contributions, the member, except as provided by
16 section 88-341, may not withdraw the member's
17 accumulated contributions for the class A or B
18 credited service that was converted to class C
19 credited service until the member retires or attains
20 age sixty-two[-];

21 (3) A class A member who returns to service after June 30,
22 2008, with vested benefit status and who does not



1 return to service as a class B member shall return to
 2 service as a class A member; and
 3 (4) A class B member who returns to service after June 30,
 4 2008, with vested benefit status and who does not
 5 return to service as a class B member shall return to
 6 service as a class A member."

7 SECTION 9. Section 88-322, Hawaii Revised Statutes, is
 8 amended by amending subsection (d) to read as follows:

9 "(d) The board may permit the cost of conversion of
 10 class C credited service to class H credited service pursuant to
 11 subsection (a) or (b) to be paid by the member in any one of the
 12 following methods at the member's option:

13 (1) By after-tax deductions from the member's compensation
 14 [~~pursuant to section 414(h)(2) of the Internal Revenue~~
 15 ~~Code of 1986, as amended, under the employer pick up~~
 16 ~~plan under section 88-326]. An irrevocable payroll~~
 17 authorization filed by the member for a period not to
 18 exceed one hundred twenty months shall remain in
 19 effect until the completion of the payroll payments or
 20 termination of employment, whichever is earlier. The
 21 amount of the deductions shall be in an amount
 22 sufficient to amortize the actuarial cost of the



1 conversion, together with interest at the rate of
2 eight per cent a year, in level bi-monthly payments
3 over the period specified in the irrevocable
4 authorization. Service credited will be proportional
5 on the basis of whole months. For example, a member
6 electing to convert one hundred twenty months of
7 service over sixty months and terminating after thirty
8 and one-half months of deductions pursuant to this
9 subsection, will have converted sixty months of class
10 C service to class H service; or

11 (2) By lump sum payment.

12 If the deductions from compensation do not commence, or if
13 the lump sum payment is not paid to the system, within one
14 hundred eighty days after the deadline for making the election
15 to convert class C credited service to class H credited service,
16 the election shall be deemed revoked. The deductions from
17 compensation or lump sum payment shall be paid to the system and
18 shall be credited to the member's individual account and become
19 part of the member's accumulated contributions."

20 SECTION 10. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



- 1 SECTION 11. This Act shall take effect on July 1, 2008;
- 2 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. Conforms provisions to comply with federal tax law changes affecting the hybrid plan. (SB3004 HD2)

