
A BILL FOR AN ACT

RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES'
RETIREMENT SYSTEM.

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

1 SECTION 1. The employees' retirement system of the State
2 of Hawaii ("system") is intended to be a tax-qualified
3 retirement plan under Section 401(a) of the Internal Revenue
4 Code of 1986, as amended ("Code"). Section 414(h)(2) of the
5 Code provides favorable tax treatment for employee contributions
6 made by the employer on behalf of the employee to a tax-
7 qualified retirement plan established by a state or county or by
8 an agency or instrumentality of a state or county. However, the
9 tax-qualified status of the system may be jeopardized by the
10 provisions of chapter 88, Hawaii Revised Statutes, that provide
11 for optional membership in the system. These provisions include
12 provisions allowing elective officers to exercise their option
13 to join the system at any time during their term of office and
14 provisions allowing elective officers and judges to withdraw
15 from ERS membership while remaining in office. As defined by
16 section 88-21, Hawaii Revised Statutes, an elective officer



1 includes those persons elected to the county councils, the
2 office of Hawaiian affairs, and the legislature.

3 This Act repeals the provisions of chapter 88, Hawaii
4 Revised Statutes, that make membership in the system by elective
5 officers optional and replaces those provisions with a new
6 section that requires elective officers to exercise a one-time
7 irrevocable election to join the system when they are elected
8 for the first time (or, in the case of existing office holders,
9 by October 1, 2008). The new section also sets forth the
10 requirements that must be satisfied for retirants to return to
11 service as elective officers without suspension of retirement
12 benefits.

13 This Act also repeals the statutory provision that allows
14 elective officers and judges who have reached the statutory cap
15 on retirement benefits to withdraw from membership in the system
16 by nominally retiring even though they remain in office.

17 SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended
18 by adding a new section to be appropriately designated and to
19 read as follows:

20 "§88-A Membership of elective officers. (a) All elective
21 officers shall be members of the system provided that, an



1 elective officer shall have a one-time election to be excluded
2 from membership in the system.

3 (b) Unless the elective officer is a member of the system,
4 a former member of the system, or a retirant, an elective
5 officer who wishes to be excluded from membership in the system
6 shall elect to be excluded no later than thirty days following
7 the elective officer's taking office. The election shall be
8 irrevocable. If the elective officer fails to elect to be
9 excluded from membership in the system within the period allowed
10 for making the election, the elective officer shall become a
11 member effective as of the date the elective officer takes
12 office.

13 (c) Notwithstanding section 88-21, 88-98, 88-273(c), or 88
14 344, or any other law to the contrary, the retirement allowance
15 of a retirant who returns to service as an elective officer
16 shall not be suspended if the retirant:

17 (1) Retired pursuant to section 88-73(d); or
18 (2) Has been retired for at least twelve consecutive
19 months prior to return to service and elects to have
20 the retirement allowance continue. The election
21 whether or not to have the retirant's retirement
22 allowance continue shall be irrevocable and shall be



1 made no later than thirty days following the
2 retirant's first return to service as an elective
3 officer.

4 If the retirant's retirement allowance is not suspended, the
5 retirant shall not become a member of the system and shall not
6 earn additional service credit or gain any additional retirement
7 benefits.

8 (d) An elective officer who retired pursuant to section
9 88-73(d) shall not be eligible for membership in the system
10 while serving as an elective officer."

11 SECTION 3. Section 88-21, Hawaii Revised Statutes, is
12 amended by amending the definition of "employee" to read as
13 follows:

14 ""Employee": any employee or officer of the State or any
15 county, including inspectors, principals, teachers and special
16 teachers, regularly employed in the public schools, cafeteria
17 managers and cafeteria workers, apprentices and on-the-job
18 trainees whether or not supported in whole or in part by any
19 federal grants, members of the legislature and other elective
20 officers, including the trustees of the office of Hawaiian
21 affairs, year-round legislative employees who are employed on a
22 full-time basis, probationary and provisional employees, any



1 employee of the educational nonprofit public corporation as
2 provided in section 88-49.7, per diem employees and others who
3 are made eligible by reason of their employment to membership in
4 the system by or pursuant to any other provision of law, but
5 excluding:

- 6 (1) Per diem employees who elect to withdraw or not to
7 become members as provided in section 88-42;
- 8 (2) ~~[Members of the legislature]~~ Elective officers who do
9 not elect to be members as provided in section ~~[88-~~
10 ~~42,]~~ 88-A;
- 11 (3) Session employees of the legislature employed after
12 October 31, 2006, in accordance with section 88-54.2;
13 and
- 14 (4) Persons excluded by rules of the board pursuant to
15 section 88-43.

16 An individual is an employee during the period of a leave
17 of absence if the individual is in service, as defined in this
18 part, during the period of the leave of absence and the board
19 shall determine who are employees within the meaning of this
20 part."

21 SECTION 4. Section 88-42, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§88-42 Membership generally. Except as otherwise
2 provided in this part, all employees of the Territory or any
3 county on July 1, 1945, shall be members of the system on [~~such~~
4 that date, and all persons who thereafter enter or reenter the
5 service of the State or any county shall become members at the
6 time of their entry or reentry.

7 Per diem workers shall become eligible for membership on
8 January 1, 1952, and all persons who are employed as per diem
9 workers after December 31, 1951, shall become members of the
10 system. Any person who was a per diem worker before January 1,
11 1952, shall not, so long as the person is employed as a per diem
12 worker, be required to become a member or to remain a member if
13 the person has elected before October 2, 1953, to withdraw as a
14 member.

15 Members of the legislature shall become eligible for
16 membership on July 1, 1951. Any member of the legislature in
17 service on July 1, 1951, or thereafter entering [~~or reentering~~
18 the legislature, [~~may~~ shall become a member [~~upon the~~
19 ~~legislator's own election.~~] as provided in section 88-A."

20 SECTION 5. Section 88-43, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§88-43 Persons ineligible for membership [~~, optional~~
2 membership]. Except with respect to faculty members or
3 lecturers employed on one or more campuses of the University of
4 Hawaii who hold multiple part-time appointments or positions, in
5 such capacities, any of which may be less than one-half of a
6 full-time equivalent but all of which, when added together,
7 aggregate to at least one-half of a full-time equivalent
8 position, the board [~~of trustees~~] may deny membership to any
9 class of part-time employees or persons engaged in temporary
10 employment of three months or less [~~, or it may, in its~~
11 discretion, make optional with persons in such classes their
12 individual entrance into membership]; provided that no officer
13 or employee entering service after January 1, 1928, who is
14 entitled to become a member of any pension system under part III
15 shall be entitled to become a member of the system.

16 [~~Elective officers shall be eligible for membership, and~~
17 ~~their individual entrance into membership shall be at their~~
18 ~~option.~~"] "

19 SECTION 6. Section 88-54.5, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§88-54.5 Service while a member of the board of trustees
22 of the office of Hawaiian affairs. Notwithstanding any



1 provisions of section 10-9 that may previously have precluded a
2 member of the board of trustees of the office of Hawaiian
3 affairs from participating as a member of the employees'
4 retirement system:

5 (1) Any trustee of the office of Hawaiian affairs in
6 service on July 1, 2002, may become a member [~~upon the~~
7 ~~trustee's election~~] in accordance with section 88-43
8 by October 1, 2002;

9 (2) Any trustee of the office of Hawaiian affairs elected
10 or appointed after July 1, 2002, may become a member
11 [~~upon the trustee's election~~] in accordance with
12 section [~~88-43,~~] 88-A;

13 (3) Any service as a trustee of the office of Hawaiian
14 affairs during the period of July 1, 1993, through
15 July 1, 2002, if claimed by the member, shall be
16 credited in the member's class at the time the service
17 is acquired; provided that membership service shall be
18 credited in accordance with sections 88-59, 88-272,
19 and 88-324; and

20 (4) Any former trustee of the office of Hawaiian affairs
21 who retired from service prior to July 1, 2002, shall
22 not be entitled to claim membership service as a



1 trustee during the period July 1, 1993, through June
2 30, 2002."

3 SECTION 7. Section 88-59, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§88-59 Acquisition of membership service.** (a) Under
6 rules as the board [~~of trustees~~] may adopt, any member may file
7 with the board a statement of all service as an employee or
8 other service paid for by the State or a county rendered prior
9 to the member's last becoming a member that is not credited to
10 the member, for which the member claims prior service credit,
11 and also a statement of the services for which the member claims
12 membership service credit and for which the member agrees to
13 have additional deductions made from the member's compensation
14 or to make a lump sum payment as described in this section.

15 (b) After the filing of the statement, the board shall
16 verify the service claimed and determine the service credit
17 allowable. Verified prior service shall be credited. Verified
18 membership service shall be paid for by the member in any one of
19 the following methods, at the member's option:

20 (1) By deductions from the member's compensation pursuant
21 to [~~section~~] Section 414(h)(2) of the Internal Revenue
22 Code of 1986, as amended, under the employer pick up



1 plan under section 88-46. An irrevocable payroll
2 authorization filed by the member for a period not to
3 exceed sixty months shall remain in effect until the
4 completion of the payroll payments or termination of
5 employment, whichever is earlier. The member may
6 elect to have:

7 (A) Deductions from the member's compensation of
8 twice the contribution rate provided for in
9 section 88-45 over a period equal to the period
10 for which membership service credit is allowable
11 not to exceed sixty months; or

12 (B) Deductions from the member's compensation of one
13 and one-half times the contribution rate provided
14 for in section 88-45 over a period equal to twice
15 the period for which membership service credit is
16 allowable not to exceed sixty months; [~~or~~]

17 or

18 (2) By lump sum payment of contributions computed at the
19 contribution rate provided for in section 88-45
20 applied to the member's monthly rate of compensation
21 at the time of payment multiplied by the number of
22 months for which membership service credit is



1 allowable; provided that after July 1, 1982, this
2 method shall not be available to any new member with
3 fewer than five years of membership service exclusive
4 of any previous service acquired under paragraph (1).

5 The deductions from compensation or lump sum payment shall be
6 paid to the system and shall be credited to the member's
7 individual account and become part of the member's accumulated
8 contributions.

9 (c) Membership service credit, in addition to any other
10 service credited to the member, shall be allowed for the period
11 for which the deductions from compensation or lump sum payment
12 have been made as described in this section.

13 (d) The contribution rates under section 88-45 shall be
14 reduced by one and eight-tenths per cent for any service being
15 claimed that was rendered prior to July 1, 1961.

16 ~~[Any member of the legislature who reenrolls as an active~~
17 ~~member in accordance with section 88-62 and who desires to~~
18 ~~obtain membership service for a period of service as a member of~~
19 ~~the legislature during which the member received a retirement~~
20 ~~allowance, in addition to complying with this section, shall~~
21 ~~refund while a reenrolled active member the retirement allowance~~
22 ~~received during the period of legislative service.] "~~



1 SECTION 8. Section 88-61, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§88-61 Termination of membership. (a) Except as
4 otherwise provided by section 88-96, any member absent from
5 service for four calendar years following the calendar year in
6 which the member's employment terminated shall cease to be a
7 member, and the former member's credited service shall be
8 forfeited.

9 (b) Any member who withdraws the member's contributions,
10 becomes a retirant, or dies, ceases to be a member as of the
11 date of withdrawal, retirement, or death.

12 ~~[(c) The membership of an elective officer or judge in the~~
13 ~~system may be terminated upon election of the member to retire~~
14 ~~whenever the allowance for the member reaches seventy five per~~
15 ~~cent of the member's average final compensation. The member's~~
16 ~~right to receive the retirement allowance prescribed in section~~
17 ~~88-74 after the member's future separation from service as~~
18 ~~provided in section 88-73 shall vest on the date of the~~
19 ~~election. Upon the date of the election, the member shall be~~
20 ~~entitled to receive the portion of the accumulated~~
21 ~~contributions, if any, which would be required to be returned to~~
22 ~~the member under section 88-74(3) as if the member's retirement~~



1 ~~allowance had commenced on that date, and after the date of the~~
2 ~~election the member shall not be allowed or required to make any~~
3 ~~future contributions.] "~~

4 SECTION 9. Section 88-73, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§88-73 **Service retirement.** (a) Any member who has at
7 least five years of credited service and who has attained age
8 fifty-five or any member who has at least twenty-five years of
9 credited service or any member who has at least ten years of
10 credited service, which includes service as a judge before July
11 1, 1999, an elective officer, or a legislative officer, shall
12 become eligible to receive a retirement allowance after the
13 member has terminated service.

14 (b) Any member who first earned credited service as a
15 judge after June 30, 1999, and who has at least five years of
16 credited service and has attained age fifty-five or has at least
17 twenty-five years of credited service shall become eligible to
18 receive a retirement allowance after the member has terminated
19 service.

20 (c) A member may retire upon the written application
21 specifying the date of retirement, which shall not be less than
22 thirty days nor more than one hundred fifty days subsequent to



1 the date of filing. Retirement shall be effective on the first
2 day of a month, except for the month of December when retirement
3 on the first or last day of the month shall be allowed.

4 (d) Any member of the legislature who attains age sixty-
5 five may retire and receive a service retirement allowance
6 although the member continues to fill the elective position.

7 ~~[(e) For the purpose of computing or determining benefits~~
8 ~~for an elective officer or judge, or any beneficiary of either,~~
9 ~~the date upon which the elective officer or judge makes an~~
10 ~~election to retire, as provided by section 88 61(e), after~~
11 ~~attaining an allowance of seventy five per cent of the member's~~
12 ~~average final compensation, shall be used as the date the member~~
13 ~~is eligible to receive a service retirement benefit. The~~
14 ~~elective officer or judge may continue in active service, but~~
15 ~~shall not receive a retirement allowance until termination of~~
16 ~~active service. Upon leaving active service, the elective~~
17 ~~officer or judge shall receive the retirement allowance provided~~
18 ~~for in section 88 74, together with the post retirement~~
19 ~~allowances provided for in section 88 90, effective on the first~~
20 ~~day of a month except the month of December when retirement~~
21 ~~benefits shall be effective on the first or last day of the~~
22 ~~month. Post retirement allowances shall be computed from the~~



1 ~~date of the election as though the elective officer or judge had~~
2 ~~left active service on that day.~~

3 ~~(f)]~~ (e) In the case of a class A or B member who also has
4 prior credited service under part VII or part VIII, total
5 credited service as a class A, class B, class C, and class H
6 member shall be used to determine the eligibility for retirement
7 allowance."

8 SECTION 10. Section 88-74, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Upon retirement from service, a member shall receive
11 a maximum retirement allowance as follows:

12 (1) If the member has attained age fifty-five, a
13 retirement allowance of two per cent of the member's
14 average final compensation multiplied by the total
15 number of years of the member's credited service as a
16 class A and B member, excluding any credited service
17 as a judge, elective officer, or legislative officer,
18 plus a retirement allowance of one and one-fourth per
19 cent of the member's average final compensation
20 multiplied by the total number of years of prior
21 credited service as a class C member, plus a
22 retirement allowance of two per cent of the member's



1 average final compensation multiplied by the total
2 number of years of prior credited service as a class H
3 member; provided that:

4 (A) After June 30, 1968, if the member has at least
5 ten years of credited service of which the last
6 five or more years prior to retirement is
7 credited service as a firefighter, police
8 officer, or an investigator of the department of
9 the prosecuting attorney;

10 (B) After June 30, 1977, if the member has at least
11 ten years of credited service of which the last
12 five or more years prior to retirement is
13 credited service as a corrections officer;

14 (C) After June 16, 1981, if the member has at least
15 ten years of credited service of which the last
16 five or more years prior to retirement is
17 credited service as an investigator of the
18 department of the attorney general;

19 (D) After June 30, 1989, if the member has at least
20 ten years of credited service of which the last
21 five or more years prior to retirement is



- 1 credited service as a narcotics enforcement
- 2 investigator;
- 3 (E) After December 31, 1993, if the member has at
- 4 least ten years of credited service of which the
- 5 last five or more years prior to retirement is
- 6 credited service as a water safety officer;
- 7 (F) After June 30, 1994, if the member has at least
- 8 ten years of credited service, of which the last
- 9 five or more years prior to retirement are
- 10 credited service as a public safety
- 11 investigations staff investigator;
- 12 (G) After June 30, 2002, if the member:
- 13 (i) Has at least ten years of credited service
- 14 as a firefighter;
- 15 (ii) Is deemed permanently medically disqualified
- 16 due to a service related disability to be a
- 17 firefighter by the employer's physician; and
- 18 (iii) Continues employment in a class A or B
- 19 position other than a firefighter; [~~and~~]
- 20 and
- 21 (H) After June 30, 2004, if the member:



1 (i) Has at least ten years of credited service
2 as a police officer;
3 (ii) Is deemed permanently medically disqualified
4 due to a service related disability to be a
5 police officer by the employer's physician;
6 and
7 (iii) Continues employment in a class A or B
8 position other than a police officer;
9 then for each year of service as a firefighter, police
10 officer, corrections officer, investigator of the
11 department of the prosecuting attorney, investigator
12 of the department of the attorney general, narcotics
13 enforcement investigator, water safety officer, or
14 public safety investigations staff investigator, the
15 retirement allowance shall be two and one-half per
16 cent of the member's average final compensation. The
17 maximum retirement allowance for those members shall
18 not exceed eighty per cent of the member's average
19 final compensation. If the member has not attained
20 age fifty-five, the member's retirement allowance
21 shall be computed as though the member had attained

1 age fifty-five, reduced for age as provided in
2 subsection (b);

3 (2) If the member has credited service as a judge, the
4 member's retirement allowance shall be computed on the
5 following basis:

6 (A) For a member who has credited service as a judge
7 before July 1, 1999, irrespective of age, for
8 each year of credited service as a judge, three
9 and one-half per cent of the member's average
10 final compensation in addition to an annuity that
11 is the actuarial equivalent of the member's
12 accumulated contributions allocable to the period
13 of service; and

14 (B) For a member who first earned credited service as
15 a judge after June 30, 1999, for each year of
16 credited service as a judge, three and one-half
17 per cent of the member's average final
18 compensation in addition to an annuity that is
19 the actuarial equivalent of the member's
20 accumulated contributions allocable to the period
21 of service. If the member has not attained age
22 fifty-five, the member's retirement allowance



1 shall be computed as though the member had
2 attained age fifty-five, reduced for age as
3 provided in subsection (b); or

4 (C) For a judge with other credited service, as
5 provided in paragraph (1). If the member has not
6 attained age fifty-five, the member's retirement
7 allowance shall be computed as though the member
8 had attained age fifty-five, reduced for age as
9 provided in subsection (b); or

10 (D) For a judge with credited service as an elective
11 officer or as a legislative officer, as provided
12 in paragraph (3).

13 ~~[No allowance shall exceed seventy five per cent of~~
14 ~~the member's average final compensation. If the~~
15 ~~allowance exceeds this limit, it shall be adjusted by~~
16 ~~reducing the annuity included in subparagraphs (A) and~~
17 ~~(B) and the portion of the accumulated contributions~~
18 ~~specified in the subparagraphs in excess of the~~
19 ~~requirements of the reduced annuity shall be returned~~
20 ~~to the member upon the member's retirement or paid to~~
21 ~~the member's designated beneficiary upon the member's~~
22 ~~death while in service or while on authorized leave~~



1 ~~without pay. The allowance for judges under this~~
2 ~~paragraph, together with the retirement allowance~~
3 ~~provided by the federal government for similar~~
4 ~~service, shall in no case exceed seventy five per cent~~
5 ~~of the member's average final compensation]; or~~

6 (3) If the member has credited service as an elective
7 officer or as a legislative officer, the member's
8 retirement allowance shall be derived by adding the
9 allowances computed separately under subparagraphs
10 (A), (B), (C), and (D) as follows:

11 (A) Irrespective of age, for each year of credited
12 service as an elective officer, three and one-
13 half per cent of the member's average final
14 compensation as computed under section 88-
15 81(e)(1), in addition to an annuity that is the
16 actuarial equivalent of the member's accumulated
17 contributions allocable to the period of service;
18 and

19 (B) Irrespective of age, for each year of credited
20 service as a legislative officer, three and one-
21 half per cent of the member's average final
22 compensation as computed under section 88-



1 81(e) (2), in addition to an annuity that is the
2 actuarial equivalent of the member's accumulated
3 contributions allocable to the period of service;

4 (C) If the member has credited service as a judge,
5 the member's retirement allowance shall be
6 computed on the following basis:

7 (i) For a member who has credited service as a
8 judge before July 1, 1999, irrespective of
9 age, for each year of credited service as a
10 judge, three and one-half per cent of the
11 member's average final compensation as
12 computed under section 88-81(e) (3), in
13 addition to an annuity that is the actuarial
14 equivalent of the member's accumulated
15 contributions allocable to the period of
16 service; and

17 (ii) For a member who first earned credited
18 service as a judge after June 30, 1999, and
19 has attained the age of fifty-five, for each
20 year of credited service as a judge, three
21 and one-half per cent of the member's
22 average final compensation as computed under



1 section 88-81(e) (3), in addition to an
2 annuity that is the actuarial equivalent of
3 the member's accumulated contributions
4 allocable to the period of service. If the
5 member has not attained age fifty-five, the
6 member's retirement allowance shall be
7 computed as though the member had attained
8 age fifty-five, reduced for age as provided
9 in subsection (b); [~~and~~]

10 and

11 (D) For each year of credited service not included in
12 subparagraph (A), (B), or (C), the average final
13 compensation as computed under section 88-
14 81(e) (4) shall be multiplied by two per cent for
15 credited service earned as a class A or class H
16 member, two and one-half per cent for credited
17 service earned as a class B member, and one and
18 one-quarter per cent for credited service earned
19 as a class C member. If the member has not
20 attained age fifty-five, the member's retirement
21 allowance shall be computed as though the member



1 had attained age fifty-five, reduced for age as
2 provided in subsection (b).
3 ~~[The total retirement allowance shall not exceed~~
4 ~~seventy five per cent of the member's highest average~~
5 ~~final compensation calculated under section 88-~~
6 ~~81(c)(1), (2), (3), or (4). If the allowance exceeds~~
7 ~~this limit, it shall be adjusted by reducing any~~
8 ~~annuity accrued under subparagraphs (A), (B), and (C)~~
9 ~~and the portion of the accumulated contributions~~
10 ~~specified in these subparagraphs in excess of the~~
11 ~~requirements of the reduced annuity shall be returned~~
12 ~~to the member upon the member's retirement or paid to~~
13 ~~the member's designated beneficiary upon the member's~~
14 ~~death while in service or while on authorized leave~~
15 ~~without pay.] If a member has service credit as an~~
16 elective officer or as a legislative officer in
17 addition to service credit as a judge, then the
18 retirement benefit calculation contained in this
19 paragraph shall supersede the formula contained in
20 paragraph (2)."

21 SECTION 11. Section 88-251, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§88-251 Applicability.** The following provisions of part
2 II shall apply to this part:

3 (1) Subpart A, except the definitions provided in section
4 88-21, unless expressly adopted in section 88-261;

5 (2) Subpart B, except sections 88-45, 88-45.5, 88-46, 88-
6 48, 88-52, 88-59, 88-59.5, [~~88-59.6,~~] 88-61, and 88-
7 62;

8 (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74,
9 88-74.6, 88-75, 88-76, 88-80, 88-83, 88-84, 88-85, 88-
10 87, 88-88, 88-96, 88-97, and 88-98;

11 (4) Subpart D, except sections 88-112 and 88-113; and

12 (5) Subpart E."

13 SECTION 12. Section 88-301, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§88-301 Applicability.** The following provisions of part
16 II of this chapter shall apply to this part:

17 (1) Subpart A;

18 (2) Subpart B, except sections 88-45, 88-46, 88-48, 88-52,
19 88-59, 88-59.5, [~~88-59.6,~~] 88-61, and 88-62;

20 (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74,
21 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83, 88-84, 88-
22 85, 88-88, 88-96, 88-97, and 88-98;



1 (4) Subpart D; and

2 (5) Subpart E."

3 SECTION 13. Section 88-59.6, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§88-59.6 Previous membership service credit for judges.~~

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

15 ~~(b) Those judges who are entitled to membership service~~
16 ~~credit under this section may elect to cancel retirement under~~
17 ~~section 88-61(c) and, no later than July 1, 1993, begin to make~~
18 ~~additional deductions or make a lump sum payment for such~~
19 ~~service pursuant to section 88-59."]~~

20 SECTION 14. Elective officers in office on the effective
21 date of this Act, who are not retirants of the employees'
22 retirement system, shall be deemed to have exercised the one-



1 time election under subsection (a) of the new section added to
2 chapter 88, Hawaii Revised Statutes, by section 2 of this Act.

3 SECTION 15. Elective officers who are retirants of the
4 employees' retirement system of the State of Hawaii shall make
5 an election, not later than the effective date of this Act,
6 whether or not to have their retirement allowance continue as
7 provided by section 2 of this Act. If the elective officer
8 makes no election, the elective officer's retirement allowance
9 shall continue. An elective officer whose retirement allowance
10 continues pursuant this section shall not be eligible for
11 membership in the employees' retirement system of the State of
12 Hawaii while serving as an elective officer.

13 SECTION 16. The requirement of section 2 of this Act, that
14 a retirant who returns to service as an elective officer shall
15 have been retired for a least twelve consecutive months prior to
16 return to service to be eligible to make an election to have the
17 retirant's retirement allowance continue, shall not be
18 applicable to any retirant who returns to service as an elective
19 officer prior to January 3, 2009; provided that the retirant did
20 not retire as an elective officer.

21 SECTION 17. Sections 8 and 9 of this Act shall not be
22 applied to affect the rights of any retirants, as defined in



1 section 88-21, Hawaii Revised Statutes, who retired prior to the
2 effective date of this Act, or rights of the beneficiaries or
3 survivors of those retirants.

4 SECTION 18. In codifying the new section added to chapter
5 88, Hawaii Revised Statutes, by section 2 this Act, the revisor
6 of statutes shall substitute an appropriate section number for
7 the letter used in the designation of the new section and the
8 references to that new section in this Act.

9 SECTION 19. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 20. This Act shall take effect on October 1, 2008.



Report Title:

ERS; Membership of Elective Officers and Judges

Description:

Repeals the provisions that (1) make ERS membership by elective officers optional and (2) allow elective officers and judges to withdraw from ERS membership by nominally retiring even though they remain in office. Provides for service by retirants as elective officers without suspension of retirement benefits. Lifts the 75% retirement benefit ceiling for judges and elective officers. (SB3005 HD1)

