

JAN 22 2008

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 to part II a new section 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."

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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 roll over 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 to read as follows:

11 "**§88-83.5 Benefit limitations.** (a) Notwithstanding any
12 other law to the contrary, the benefits payable to all employees
13 who first become members on or after January 1, 1990, shall be
14 subject to the limitations set forth in section 415 of the
15 Internal Revenue Code of 1986, as amended[~~-~~], applicable to
16 governmental plans. The dollar limit in section 415(b)(1)(A) of
17 the Internal Revenue Code of 1986, as amended, shall be adjusted
18 automatically under section 415(d) of the Internal Revenue Code
19 of 1986, as amended, effective January 1 of each year, as
20 published in the Internal Revenue Bulletin. The automatic
21 adjustment shall apply to members, former employees, retirants,
22 and beneficiaries.

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1 (b) Notwithstanding any other law to the contrary, the
2 benefits payable to all employees who first became members before
3 January 1, 1990, shall be subject to the greater of the following
4 limitations as provided in section 415(b)(10) of the Internal
5 Revenue Code of 1986, as amended:

6 (1) The limitations set forth in section 415 of the
7 Internal Revenue Code of 1986, as amended; or

8 (2) The benefit of the member without regard to any
9 benefit increases pursuant to an amendment adopted
10 after October 14, 1987.

11 (c) The system shall establish a benefit restoration plan
12 for the payment of retirement benefits as permitted under section
13 415(m) of the Internal Revenue Code of 1986, as amended, as
14 follows:

15 (1) All [~~retired members~~] retirants and beneficiaries of
16 the system whose pension has been limited by section
17 415 of the Internal Revenue Code shall receive a
18 monthly benefit from the plan established pursuant to
19 this subsection that is equal to the difference
20 between the retirement benefit otherwise payable and
21 the retirement benefit payable because of section 415
22 of the Internal Revenue Code of 1986, as amended;

- 1 (2) Participation in the plan shall be determined for each
2 plan year and shall cease whenever the retirement
3 benefit is not limited by section 415 of the Internal
4 Revenue Code of 1986, as amended;
- 5 (3) The plan shall be funded on a plan-year-to-plan-year
6 basis and shall not be used to pay any benefits
7 payable in future years. Upon the recommendation of
8 the system's actuary, the required contribution amount
9 shall be determined by the board [~~of trustees~~] and
10 deposited in a separate fund from an allocation of
11 employer contribution amounts pursuant to this
12 chapter;
- 13 (4) The board [~~of trustee~~] shall administer the plan and
14 may make modifications to the benefits payable as may
15 be necessary to maintain the qualified status of the
16 plan under section 415(m) of the Internal Revenue Code
17 of 1986, as amended."

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

20 "**§88-141 Computation of compensation earned or earnable.**

21 In any case where it shall become necessary, for the purposes of
22 sections 88-131 to 88-142, to determine the compensation or

1 average compensation of a member of the system during any period
2 of the member's service in the armed forces, or during any
3 period [~~(not exceeding ninety days)~~] immediately thereafter
4 while the member was not an employee as defined in section 88-
5 21, the member's rate of compensation during [~~any such~~] the
6 period shall, for the purposes of sections 88-131 to 88-142, be
7 deemed to have been that which the member [~~was receiving as such~~
8 ~~an employee immediately prior to the inception of~~] would have
9 received but for the member's service in the armed forces
10 [~~without any of the additional increments for length of service~~
11 ~~provided for by any classification or other law]."~~

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

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

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

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

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

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1 (2) An accidental death."

2 SECTION 7. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

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8

BY REQUEST

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.

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To amend chapter 88, Hawaii Revised Statutes, to: clarify and correct existing language; conform statutes to current practice and to applicable federal law; and streamline the administration of the employees' retirement system.

MEANS: Add a new section to chapter 88, Hawaii Revised Statutes, and amend sections 88-6, 88-21, 88-83.5, 88-141, and 88-286(a), Hawaii Revised Statutes.

JUSTIFICATION: In addition to various housekeeping amendments, this omnibus bill includes the following amendments:

- (1) Section 88-__ : Authorizes the employees' retirement system (ERS) to specify the format in which employers must transmit information to the ERS. The amendment will allow the ERS to require information concerning payroll and personnel transactions to be provided to the ERS electronically, with a breakdown according to pay periods and purpose of payments such as bonuses, salary adjustments, payments for compensatory time and workers' compensation.
- (2) Section 88-6: Requires direct deposit into a financial institution for lump sum payments of accumulated contributions or hypothetical account balances, if the payment will be greater than \$250 and the member, former employee, retirant or beneficiary does not elect to roll over the payment into an eligible retirement plan. This method may be waived by the ERS if another method is determined more appropriate. The proposed amendment is

consistent with the current requirement of depositing monthly or semimonthly retirement checks into a financial institution.

- (3) Section 88-21: Clarifies the definition of "beneficiary", to conform to administrative interpretation, to include, in addition to the person or persons designated as beneficiary by a member, former member or retirant, the person or persons designated by statute to receive an ERS benefit. For example, a Noncontributory plan member may not designate the recipient of the benefits that are payable if the member suffers an "ordinary death" while in service; however, the applicable statute provides that Noncontributory plan ordinary death benefits are payable only to the spouse, reciprocal beneficiary, or minor children of the member.
- (4) Section 88-21: Clarifies the definition of "service" to conform to administrative interpretation: in order to receive membership credit for unpaid leaves of absence or exchange, a Contributory or Hybrid plan member must make retirement contributions for the period of the leave of absence or exchange. The only unpaid leaves of absence or exchange for which a member may receive membership credit are approved leaves for professional improvement or leaves of absence or exchange during which the member is engaged in the performance of a governmental function.
- (5) Section 88-83.5: Provides for automatic increase in the annual ceiling on pension benefits to parallel increases in the federal ceiling under section 415 of the Internal Revenue Code.
- (6) Section 88-141: Conforms this section to the requirements of the federal Uniform Services Employment and Reemployment

Rights Act (USERRA) by using, as compensation for the period that an ERS member is on active service in the armed forces, the compensation that the member would have received (including all salary increases) had the member not been on active military duty in the armed forces, instead of the member's compensation "at the inception of the member's military service."

- (7) Section 88-286(a): Conforms the statute to administrative interpretation by clarifying that the 10-year service requirement is applicable to Noncontributory plan ordinary death benefits, regardless of whether the member's death occurred while in service or while on authorized leave of absence, and that the 10-year service requirement is not applicable to accidental death benefits.

Impact on the public: None.

Impact on the department and other agencies:

The amendments will streamline the administration of the employees' retirement system. The prospective implementation date of July 1, 2010 for the new section added by section 1 will enable the State and counties to plan for anticipated revisions or changes in their payroll and personnel computer systems over the next two-year period in order to comply with the provisions in section 1.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM
DESIGNATION:

BUF-141/Retirement.

OTHER AFFECTED
AGENCIES:

All state and county public employers.

EFFECTIVE DATE: July 1, 2008; provided that section 1 shall be effective on July 1, 2010.