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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) Beginning July 1, 2008, any member, former employee,  
19 retirant, or beneficiary to whom accumulated contributions or a  
20 hypothetical account balance, as defined in section 88-311, is  
21 payable shall designate a financial institution account into



1 which the system shall be authorized to deposit the payment;  
2 provided that:

- 3       (1) The payment is greater than \$250; and  
4       (2) The member, former employee, retirant, or beneficiary  
5           does not elect to roll over the payment into an  
6           eligible retirement plan.

7       This method of payment may be waived by the system if  
8 another method is determined to be more appropriate."

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

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

18       "Service": service as an employee paid by the State or  
19 county~~[, and also]~~; service during the period of a leave of  
20 absence or exchange if the individual is paid by the State or  
21 county during the period of the leave of absence or exchange ~~[or~~  
22 ~~if the individual is not paid by the State or county during the~~



1 ~~period of the leave of absence but~~]; and service during the  
2 period of an unpaid leave of absence or exchange if the  
3 individual is engaged in the performance of a governmental  
4 function or ~~en~~ if the unpaid leave of absence is an approved  
5 leave of absence for professional improvement ~~[with or]~~;  
6 provided that, for the period of the leave of absence or  
7 exchange without pay ~~[and]~~, the individual makes the same  
8 contribution to the system as the individual would have made if  
9 the individual had not been on ~~[such]~~ the leave of absence.  
10 Cafeteria managers and cafeteria workers shall be considered as  
11 paid by the State, regardless of the source of funds from which  
12 they are paid."

13 SECTION 4. Section 88-45.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 " ~~[+{§88-45.5{+}]~~ **Acceptance of rollovers and transfers from**  
16 **other plans.** ~~[Subject to rules adopted by the board of~~  
17 ~~trustees, the system shall]~~ The system may accept an eligible  
18 rollover distribution or a direct transfer of funds from  
19 ~~[another qualified plan]~~;

20 (1) A tax qualified retirement plan described in section  
21 401(a) of the Internal Revenue Code of 1986, as  
22 amended;



- 1        (2) An annuity plan described in section 403(a) of the  
2            Internal Revenue Code of 1986, as amended;
- 3        (3) An annuity contract described in section 403(b) of the  
4            Internal Revenue Code of 1986, as amended;
- 5        (4) An individual retirement account described in section  
6            408(a) of the Internal Revenue Code of 1986, as  
7            amended;
- 8        (5) An individual retirement annuity described in section  
9            408(b) of the Internal Revenue Code of 1986, as  
10           amended; or
- 11       (6) An eligible deferred compensation plan described in  
12           section 457(b) of the Internal Revenue Code of 1986,  
13           as amended, that is established and maintained by a  
14           state, a political subdivision of a state, or any  
15           agency or instrumentality of a state or political  
16           subdivision of a state;
- 17 in payment of all or a portion of any deposit a member is  
18 permitted to make with the system for credit for service,  
19 including the conversion of class C credited service to class H  
20 credited service. ~~[The]~~ Any rules adopted by the board ~~[of~~  
21 ~~trustees]~~ pursuant to this section shall condition the  
22 acceptance of a rollover or transfer from another plan on the



1 receipt from the other plan of information necessary to enable  
2 the system to determine the eligibility of any transferred funds  
3 for tax-free rollover treatment or [~~other~~] tax-free transfer  
4 treatment under federal income tax law."

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

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

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

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

20 "(c) The system shall establish a benefit restoration plan  
21 for the payment of retirement benefits as permitted under



1 section 415(m) of the Internal Revenue Code of 1986, as amended,  
2 as follows:

- 3 (1) All [~~retired members~~] retirants and beneficiaries of  
4 the system whose pension has been limited by section  
5 415 of the Internal Revenue Code shall receive a  
6 monthly benefit from the plan established pursuant to  
7 this subsection that is equal to the difference  
8 between the retirement benefit otherwise payable and  
9 the retirement benefit payable because of section 415  
10 of the Internal Revenue Code of 1986, as amended;
- 11 (2) Participation in the plan shall be determined for each  
12 plan year and shall cease whenever the retirement  
13 benefit is not limited by section 415 of the Internal  
14 Revenue Code of 1986, as amended;
- 15 (3) The plan shall be funded on a plan-year-to-plan-year  
16 basis and shall not be used to pay any benefits  
17 payable in future years. Upon the recommendation of  
18 the system's actuary, the required contribution amount  
19 shall be determined by the board [~~of trustees~~] and  
20 deposited in a separate fund from an allocation of  
21 employer contribution amounts pursuant to this  
22 chapter;



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

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

8           "**§88-141 Computation of compensation earned or earnable.**

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





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

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

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

10 (A) While in service; or [an]

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

12 (2) An accidental death."

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

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



1 provided that any member in service on February 28, 2006, who is  
2 absent from the State on that date while in the military service  
3 of the United States, shall have thirty days after the member  
4 returns to the member's regular employment with the State or a  
5 county to make the election. The election shall be made by  
6 members entering or returning to service from March 1, 2006,  
7 through June 30, 2006, within sixty days of entering or  
8 returning to service. [~~The election shall be made by members~~  
9 ~~entering or returning to service after June 30, 2006, within~~  
10 ~~thirty days of entering or returning to service.~~] The election  
11 shall be irrevocable.

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

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



1 service as a class C member, unless the refund was  
2 made pursuant to section 88-96 or 88-271(b); [~~and~~]  
3 (2) A class A or a class B member, who returns to service  
4 after June 30, 2006, but does not have vested benefit  
5 status as provided in section 88-96(b) and who does  
6 not return to service as a class A or class B member,  
7 shall become a class H member upon return to service  
8 and the member's credited service as a class A or B  
9 member shall be converted to class C credited service.  
10 The system shall return to the member the member's  
11 accumulated contributions if the member's accumulated  
12 contributions are \$1,000 or less at the time of  
13 distribution. If the member's accumulated  
14 contributions for the class A or B credited service  
15 that was converted to class C credited service are  
16 greater than \$1,000 and the member does not make  
17 written application, contemporaneously with the  
18 member's return to service, for return of such  
19 contributions, the member, except as provided by  
20 section 88-341, may not withdraw the member's  
21 accumulated contributions for the class A or B  
22 credited service that was converted to class C



1 credited service until the member retires or attains  
2 age sixty-two[-];

3 (3) A class A 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; and

7 (4) A class B member who returns to service after June 30,  
8 2008, with vested benefit status and who does not  
9 return to service as a class B member shall return to  
10 service as a class A member."

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

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

17 (1) By after-tax deductions from the member's compensation  
18 [~~pursuant to section 414(h)(2) of the Internal Revenue~~  
19 ~~Code of 1986, as amended, under the employer pick up~~  
20 ~~plan under section 88-326~~]. An irrevocable payroll  
21 authorization filed by the member for a period not to  
22 exceed one hundred twenty months shall remain in



1 effect until the completion of the payroll payments or  
2 termination of employment, whichever is earlier. The  
3 amount of the deductions shall be in an amount  
4 sufficient to amortize the actuarial cost of the  
5 conversion, together with interest at the rate of  
6 eight per cent a year, in level bi-monthly payments  
7 over the period specified in the irrevocable  
8 authorization. Service credited will be proportional  
9 on the basis of whole months. For example, a member  
10 electing to convert one hundred twenty months of  
11 service over sixty months and terminating after thirty  
12 and one-half months of deductions pursuant to this  
13 subsection, will have converted sixty months of class  
14 C service to class H service; or

15 (2) By lump sum payment.

16 If the deductions from compensation do not commence, or if  
17 the lump sum payment is not paid to the system, within one  
18 hundred eighty days after the deadline for making the election  
19 to convert class C credited service to class H credited service,  
20 the election shall be deemed revoked. The deductions from  
21 compensation or lump sum payment shall be paid to the system and



1 shall be credited to the member's individual account and become  
2 part of the member's accumulated contributions."

3 SECTION 10. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 11. This Act shall take effect on July 1, 2008;  
6 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 SD2)

