

TESTIMONY BY DAVID SHIMABUKURO
ADMINISTRATOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
SENATE BILL NO. 876, S.D. 2
RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

MARCH 20, 2009

Chair Rhoads and Members of the Committee:

The ERS Board of Trustees supports this Administration Bill and recommends its passage.

S.B. 876, S.D. 2 amends various provisions of Chapter 88, Hawaii Revised Statutes to clarify and conform a number of existing statutes to current practice as follows:

- Clarify that ordinary disability retirement is effective on the first day of the month or December 31, but no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later.
- Clarify that if a Noncontributory member terminates service prior to accumulating ten years of credited service and becomes a member again by December 31st of the year following the calendar year of termination, all service credits that were previously forfeited would be restored.
- Clarify that the cap on the maximum retirement allowance imposed on certain members (such as police officers, firefighters, certain public safety officers, judges and elected officials) apply to the retirant's "tack-on" benefits when they return to work.

This Bill also would amend our statutes to:

- Clarify that a challenge to an application for disability retirement or accidental death benefits is considered a petition for a contested case hearing and not an "appeal" of a medical board's decision.

- Allow approved attorney's fees and costs to be paid to the member or survivor instead of being paid only on a reimbursable basis.
- Allow ERS to stop collecting retirement contributions from certain re-employed retirants who reached the maximum average final compensation ceiling (police officers, firefighters, certain public safety officers, judges and elected officials).

We also request the following additional amendments:

- Allow ERS to use December 31, 2008 as the valuation date to determine the cost to convert a member's Noncontributory service to the Hybrid Plan.

At the present time, the valuation date to determine the member's cost for hybrid conversion is the last day of the sixth calendar month preceding the date the Board published notice that the conversion of noncontributory service will be allowed.

Although we are planning to send out over 24,000 individual statements to Hybrid members in mid 2009, the freezing of the valuation date to December 31, 2008 will help avoid the need to recompute the members' cost if there is an unforeseen delay in the Hybrid Conversion Project. The proposed amendment will be effective retroactive to February, 2009.

- Extend the deadline for a member who is absent from the State due to military service during the Hybrid conversion period by allowing up to 180 days after the member returns to work to pay for the conversion.

Thank you for the opportunity to testify on this measure.

Attachment

ATTACHMENT TO SB 876, SD2
PROPOSED AMENDMENT

(NEW) SECTION 6. Section 88-322, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) Class C members who are in service on June 30, 2006, and make the election to become class H members pursuant to section 88-321(a), shall have the option to convert some or all of their class C credited service, as of June 30, 2006, to class H credited service by paying the full actuarial cost of the conversion as of [~~June 30, 2006;~~] December 31, 2008, in the manner provided in subsection (d). The option to convert class C credited service to class H credited service shall also apply:

- (1) To forfeited credit for previous service that a member is eligible to have restored as of June 30, 2006; and
- (2) To membership service credit that a member is eligible to claim under section 88-272(4) to (6) as of June 30, 2006;

provided that the member shall claim the forfeited service credit and the membership service credit by the date established by the board at a meeting held pursuant to chapter 92.

(b) All class A and class B credited service of class A or class B members who make the election to become class H members pursuant to section 88-321(a) shall be converted to class H credited service. The cost of the conversion of class A or class B credited service shall be the member's accumulated contributions as of the date of conversion. Verified membership service credit paid for pursuant to section 88-59 under an irrevocable payroll authorization entered into prior to July 1, 2006, shall be credited as class H credited service. Class A and class B members who are in service

on June 30, 2006, and make the election to become class H members pursuant to section 88-321(a) shall have the option to convert some or all of their class C credited service, as of June 30, 2006, to class H credited service by paying, in the manner provided in subsection (d), the full actuarial cost of the conversion as of ~~[the last day of the sixth calendar month preceding the date of the notice described in subsection (e).]~~ December 31, 2008. The option to convert class C credited service to class H credited service shall also apply:

- (1) To forfeited credit for previous service that a member is eligible to have restored as of June 30, 2006; and
- (2) To membership service credit that a member is eligible to claim under section 88-272(4) to (6) as of June 30, 2006;

provided that the member shall claim the forfeited service credit and the membership service credit by the date established by the board at a meeting held pursuant to chapter 92."

2. By amending subsection (d) to read:

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

- (1) By after-tax deductions from the member's compensation. An irrevocable payroll authorization filed by the member for a period not to exceed one hundred twenty months shall remain in effect until the completion of the payroll payments or termination of employment, whichever is earlier. The

amount of the deductions shall be in an amount sufficient to amortize the actuarial cost of the conversion, together with interest at the rate of eight per cent a year, in level bi-monthly payments over the period specified in the irrevocable authorization. Service credited will be proportional on the basis of whole months. For example, a member electing to convert one hundred twenty months of service over sixty months and terminating after thirty and one-half months of deductions pursuant to this subsection, will have converted sixty months of class C service to class H service; or

- (2) By lump sum payment.

~~[If the deductions from compensation do not commence, or if the lump sum payment is not paid to the system, within one hundred eighty days after the deadline for making the election to convert class C credited service to class H credited service, the election shall be deemed revoked.]~~ The deductions from compensation or lump sum payment shall be paid to the system and shall be credited to the member's individual account and become part of the member's accumulated contributions. The deductions from compensation shall commence, and any lump sum payment shall be paid to the system, within one hundred eighty days after the deadline for making the election to convert class C credited service to class H credited service. If a member is absent from the State while in the military service of the United States during the one hundred eighty day period after the deadline for making the election, the deductions from the member's compensation shall commence, and any lump sum payment shall be made by the

member, within one hundred eighty days after the member's return to the member's regular employment with the State or a county; provided that any extension, pursuant to subsection (c), of the deadline for making the election to convert class C credited service to class H credited service shall not extend the time for the deductions from the member's compensation to commence or for the member to make any lump sum payment unless the extension pursuant to subsection (c) is applicable to all members eligible to make the election. A member's election to convert class C credited service to class H credited service shall be deemed revoked as to any service for which payments by deductions from compensation do not commence, or for which the lump sum payment is not made, within the time required by this subsection."

3. By amending subsection (f) to read:

"(f) The actuarial cost of converting a member's class C credited service to class H credited service under subsections (a) and (b) shall be based on the member's actual age in full years as of ~~[the last day of the sixth calendar month preceding the date of the notice described in subsection (e),]~~ December 31, 2008, and on the member's monthly base salary or monthly basic rate of pay as of ~~[the last day of the sixth calendar month preceding the date of the notice described in subsection (e),]~~ December 31, 2008, exclusive of overtime, differentials, supplementary payments, bonuses, and salary supplements, but including elective salary reduction contributions under sections 125, 403(b), and 457(b) of the Internal Revenue Code of 1986, as amended."

SECTION 7. Section 88-334, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) "

SECTION 8. Statutory material

SECTION 9. This Act shall take effect on July 1, 2009; provided that section 6 shall take effect retroactive to February 1, 2009.