

JAN 21 2010

S.B. NO. 2227

---

---

# 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 be appropriately designated and to  
3 read as follows:

4 "§88- Reinstatement of benefits. An individual whose:

5 (1) Benefits under this chapter arose from that  
6 individual's spouse's or reciprocal beneficiary's  
7 membership in the employees' retirement system through  
8 employment as a police officer, firefighter, deputy  
9 sheriff, or public safety officer; and

10 (2) Pension or benefit was terminated by reason of  
11 remarriage, marriage, or entry into a new reciprocal  
12 beneficiary relationship occurring subsequent to the  
13 death of the member,

14 may have the terminated pension or benefit reinstated upon a  
15 written application to the applicable system. The level of  
16 reinstated pension or benefit payment shall be the amount  
17 received by the surviving spouse or surviving reciprocal



1 beneficiary on the date that the payment was terminated,  
2 adjusted to reflect ad hoc and scheduled increases from the date  
3 of termination to the date of reinstatement. Benefit payments  
4 accruing between the effective date of reinstatement and the  
5 date reinstated benefits payments commence shall be paid without  
6 interest."

7 SECTION 2. Section 88-21, Hawaii Revised Statutes, is  
8 amended by adding two new definitions to be appropriately  
9 inserted and to read as follows:

10 "Deputy sheriff": an employee in the department of public  
11 safety who has been conferred police power by the director of  
12 public safety pursuant to section 353C-4 and is in a position of  
13 deputy sheriff I through V.

14 "Public safety officer": any individual employed as a  
15 corrections officer, investigator of the department of the  
16 prosecuting attorney, investigator of the department of the  
17 attorney general, narcotics enforcement investigator, water  
18 safety officer, or public safety investigations staff  
19 investigator."

20 SECTION 3. Section 88-1, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "§88-1 Restrictions. [~~The provisions of this~~] This  
2 section shall [~~be applicable~~] apply to every pension and to  
3 every recipient or beneficiary thereof, granted or provided for  
4 by any special act of the legislature (other than benefits, or  
5 the recipients thereof, payable to beneficiaries or retirants of  
6 the employees' retirement system under parts II, VII, and VIII)  
7 whether the pension [~~be~~] is payable by the State or by any  
8 county, or by any board, commission, bureau, department, or  
9 other agency thereof:

10       (1) No recipient or beneficiary shall be permitted to draw  
11 any pension, or any portion thereof, in excess of \$50  
12 per month, while the recipient or beneficiary is  
13 holding any salaried position or office in, under, or  
14 by authority of the United States, the State, or any  
15 political subdivision thereof. This paragraph shall  
16 not apply to any recipient or beneficiary who is  
17 elected to the legislature or to the council of any  
18 county[-];

19       (2) If the recipient or beneficiary is a surviving spouse  
20 or surviving reciprocal beneficiary, the pension so  
21 granted shall cease when the surviving spouse or  
22 surviving reciprocal beneficiary remarries, marries,



1 or enters into a new reciprocal beneficiary  
2 relationship[-];

3 (3) Any pension payable to any minor shall cease when the  
4 minor reaches the age of eighteen years[-]; and

5 (4) If any recipient or beneficiary of a pension, having a  
6 spouse or reciprocal beneficiary at the time the  
7 pension was first granted to the recipient or  
8 beneficiary dies, then the spouse or reciprocal  
9 beneficiary, as long as the spouse or reciprocal  
10 beneficiary remains unmarried or not in a reciprocal  
11 beneficiary relationship, shall be paid sixty per cent  
12 of the amount of the pension payable to the  
13 beneficiary."

14 SECTION 4. Section 88-85, Hawaii Revised Statutes, is  
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) In the case of an accidental death as determined by  
17 the board pursuant to section 88-85.5, there shall be paid to  
18 the member's designated beneficiary or to the member's estate  
19 the amount of the member's accumulated contributions and there  
20 shall be paid in lieu of the ordinary death benefit payable  
21 under section 88-84, a pension of one-half of the average final  
22 compensation of the member:



- 1           (1) To the surviving spouse or surviving reciprocal  
2           beneficiary of the member to continue until the  
3           surviving spouse or surviving reciprocal beneficiary  
4           remarries, marries, or enters into a new reciprocal  
5           beneficiary relationship; provided that payments under  
6           this paragraph shall not terminate when a surviving  
7           spouse or surviving reciprocal beneficiary of a police  
8           officer, firefighter, deputy sheriff, or public safety  
9           officer remarries, marries, or enters into a new  
10          reciprocal beneficiary relationship;
- 11          (2) If there [~~be~~] is no surviving spouse or surviving  
12          reciprocal beneficiary, or if the surviving spouse or  
13          surviving reciprocal beneficiary dies or remarries,  
14          marries, or enters into a new reciprocal beneficiary  
15          relationship before any child of the deceased member  
16          shall have attained the age of eighteen years, then to  
17          the deceased member's child or children under the age  
18          of eighteen, divided in the manner as the board in its  
19          discretion shall determine, to continue as a joint and  
20          survivor pension of one-half of the deceased member's  
21          final compensation until every child dies, or attains  
22          the age of eighteen; [~~or~~] provided that this paragraph



1           shall not apply if payments are being made to a  
2           surviving spouse or surviving reciprocal beneficiary  
3           of a police officer, firefighter, deputy sheriff, or  
4           public safety officer, unless the surviving spouse or  
5           surviving reciprocal beneficiary dies before any child  
6           of the deceased member attains the age of eighteen  
7           years; or

8           (3) If there is no surviving spouse or surviving  
9           reciprocal beneficiary or child under the age of  
10          eighteen years surviving the deceased member, then to  
11          the deceased member's dependent father or dependent  
12          mother, as the deceased member shall have nominated by  
13          written designation duly acknowledged and filed with  
14          the board, or if there is no nomination, then to the  
15          deceased member's dependent father or to the deceased  
16          member's dependent mother as the board, in its  
17          discretion, shall direct to continue for life.

18          The pension shall be effective on the first day of the month  
19          following the member's death, except for the month of December,  
20          when benefits shall be effective on the first or last day of the  
21          month.



1 (b) Notwithstanding any other law to the contrary, any  
2 condition of impairment of health caused by any disease of the  
3 heart, lungs, or respiratory system, resulting in death to a  
4 firefighter, police officer, or sewer worker, shall be presumed  
5 to have been suffered in the actual performance of duty at some  
6 definite time and place through no wilful negligence on the  
7 firefighter's, police officer's, or sewer worker's part, and as  
8 a result of the inherent occupational hazard of exposure to and  
9 inhalation of smoke, toxic gases, chemical fumes, and other  
10 toxic vapors, unless the contrary ~~[be]~~ is shown by competent  
11 evidence; provided that ~~[such]~~ the firefighter, police officer,  
12 or sewer worker shall have passed a physical examination on  
13 entry or subsequent to entry into ~~[such]~~ that service ~~[or~~  
14 ~~subsequent to such entry]~~, which examination failed to reveal  
15 any evidence of ~~[such]~~ that condition."

16 SECTION 5. Section 88-163, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§88-163 Death benefits: funeral expenses; payments to**  
19 **dependents.** (a) Upon the death of any member of the police  
20 force, fire department, or band, as a result of any injury  
21 received or disease contracted while in the performance of ~~[his]~~  
22 the member's duty, or when entitled to a pension under this part



1 or who has been pensioned under this part there shall be paid,  
2 for funeral expenses, a sum not to exceed \$100. Should the  
3 deceased member leave a dependent [~~widow~~] spouse or reciprocal  
4 beneficiary and a child or children under the age of eighteen  
5 years, then there shall be paid out of the system \$50 per month  
6 to the [~~widow~~] spouse until [~~her~~] the spouse's death or  
7 remarriage or to the reciprocal beneficiary until death,  
8 marriage, or entry into a new reciprocal beneficiary  
9 relationship and \$7.50 per month to the [~~widow~~] spouse or  
10 reciprocal beneficiary for each child so long as the child shall  
11 reside with the [~~widow~~] spouse or reciprocal beneficiary or is  
12 supported by the [~~widow~~] spouse or reciprocal beneficiary[-];  
13 provided that termination of payments under this subsection upon  
14 remarriage, marriage, or entry into a new reciprocal beneficiary  
15 relationship shall not apply where payments arise out of the  
16 deceased member's employment with the police or fire department.  
17 Upon the death of [~~such widow~~] the spouse or reciprocal  
18 beneficiary, or in the event the deceased member leaves no  
19 [~~widow~~] spouse or reciprocal beneficiary but a child or children  
20 under the age of eighteen years, then there shall be paid out of  
21 the system \$50 per month to the child or children of the  
22 deceased member under the age of eighteen years with each child,





1 if there [~~be~~] is more than one, receiving an equal share of the  
2 \$50 per month payment plus \$7.50 per month. All payments to a  
3 child of a deceased member provided for herein shall cease when  
4 [~~he or she~~] the child arrives at the age of eighteen years.

5 (b) If any member of the police force, fire department, or  
6 band[~~7~~] dies not leaving a [~~widow~~] spouse or reciprocal  
7 beneficiary, but leaving a father or mother dependent upon  
8 [~~him~~,] the member, the father or mother (but not both) [~~shall~~],  
9 upon satisfactory proof of dependency being made to the board of  
10 trustees, shall receive from the system a sum not exceeding \$50  
11 per month. The board shall determine whether the father or  
12 mother is dependent and how much of the amount [~~herein~~] provided  
13 for in this section shall be paid to [~~him or her~~.] that father  
14 and mother. If there [~~be~~] is no [~~widow~~] spouse or reciprocal  
15 beneficiary and no child and no father or mother, but dependent  
16 brothers or sisters, then [~~such~~] the pension shall be paid to  
17 them in such sums as shall not exceed the aggregate amount of  
18 \$30 per month. All pensions authorized as provided in this  
19 subsection shall be subject to reduction by the board of  
20 trustees whenever, in its judgment, circumstances make it  
21 reasonable, fair, or necessary. All pensions so reduced may



1 thereafter be restored or further reduced as the board may deem  
2 best.

3 (c) On the remarriage or entry into a new reciprocal  
4 beneficiary relationship of any [widow] spouse or reciprocal  
5 beneficiary where the spouse or reciprocal beneficiary is  
6 entitled to the benefits of any sum, or in the event of any  
7 father or mother, or brothers or sisters ceasing to be  
8 dependents then the payments to them shall cease."

9 SECTION 6. Section 88-286, Hawaii Revised Statutes, is  
10 amended by amending subsections (b) and (c) to read as follows:

11 "(b) In the case of ordinary death, the death benefit  
12 shall be as follows:

13 (1) For the surviving spouse or surviving reciprocal  
14 beneficiary, an allowance equal to one-half of the  
15 member's accrued maximum retirement allowance  
16 unreduced for age, payable until remarriage, marriage,  
17 or entry into a new reciprocal beneficiary  
18 relationship, as if the member had retired on the  
19 first day of a month following the member's death,  
20 except for the month of December when retirement on  
21 the first or last day of the month shall be allowed;  
22 and for each child under the age of eighteen an



1 allowance equal to ten per cent of the member's  
2 accrued maximum retirement allowance unreduced for  
3 age, payable until the child attains age eighteen;  
4 provided that the aggregate death benefits for all the  
5 children under the age of eighteen shall not exceed  
6 twenty per cent of the member's accrued retirement  
7 allowance unreduced for age; or

8 (2) For the surviving spouse or surviving reciprocal  
9 beneficiary, if the member was eligible for retirement  
10 at the time of death in service, and death occurred  
11 after June 30, 1990, an allowance that would have been  
12 payable as if the member had retired on the first day  
13 of a month following the member's death, except for  
14 the month of December when retirement on the first or  
15 last day of the month shall be allowed and had elected  
16 to receive a retirement allowance under option B of  
17 section 88-283; and

18 (3) If there is no surviving spouse or surviving  
19 reciprocal beneficiary, each child under the age of  
20 eighteen shall receive an allowance equal to twenty  
21 per cent of the member's accrued maximum retirement  
22 allowance unreduced for age, payable on the first day



1 of a month following the member's death, except for  
2 the month of December when retirement on the first or  
3 last day of the month shall be allowed, until the  
4 child attains age eighteen; provided that the  
5 aggregate death benefits for all the children under  
6 the age of eighteen shall not exceed forty per cent of  
7 the member's accrued maximum retirement allowance  
8 unreduced for age.

9 For the purpose of determining eligibility for the ordinary  
10 death benefit, a year round school employee shall be considered  
11 in service during the July and August preceding a transfer to a  
12 traditional school schedule if the employee was in service for  
13 the entire prior school year and has a contract for the upcoming  
14 traditional school year. The application for ordinary death  
15 benefits shall be filed no later than three years from the date  
16 of the member's death.

17 (c) In the case of accidental death as determined by the  
18 board pursuant to section 88-85.5, the death benefit shall be  
19 effective on the first day of the month following the member's  
20 death, except for the month of December when retirement on the  
21 first or last day of the month shall be allowed, as follows:



- 1           (1) For the surviving spouse or surviving reciprocal  
2           beneficiary, an allowance equal to thirty per cent of  
3           the member's average final compensation, payable until  
4           remarriage, marriage, or upon entry into a new  
5           reciprocal beneficiary relationship; provided that  
6           payments shall continue to a surviving spouse or  
7           surviving reciprocal beneficiary of a police officer,  
8           firefighter, deputy sheriff, or public safety officer  
9           who remarries, marries, or enters into a new  
10          reciprocal beneficiary relationship;
- 11          (2) If there is a surviving spouse or surviving reciprocal  
12          beneficiary, each child under the age of eighteen  
13          shall receive an allowance equal to the greater of:
- 14          (A) Ten per cent of the member's accrued maximum  
15               retirement allowance unreduced for age; provided  
16               that the aggregate death benefits for all the  
17               children under the age of eighteen shall not  
18               exceed twenty per cent of the member's accrued  
19               maximum retirement allowance unreduced for age;  
20               or
- 21          (B) Three per cent of the member's average final  
22          compensation; provided that the aggregate death



1           benefits for all the children under the age of  
2           eighteen shall not exceed six per cent of the  
3           member's average final compensation.

4           The death benefit under this paragraph shall be  
5           payable to each child until the child attains age  
6           eighteen; and

7           (3) If there is no surviving spouse or surviving  
8           reciprocal beneficiary, each child under the age of  
9           eighteen shall receive an allowance equal to the  
10          greater of:

11          (A) Twenty per cent of the member's accrued maximum  
12          retirement allowance unreduced for age; provided  
13          that the aggregate death benefits for all the  
14          children under the age of eighteen shall not  
15          exceed forty per cent of the member's accrued  
16          maximum retirement allowance unreduced for age;  
17          or

18          (B) Six per cent of the member's average final  
19          compensation; provided that the aggregate death  
20          benefits for all the children under the age of  
21          eighteen shall not exceed twelve per cent of the  
22          member's average final compensation.



1           The death benefit under this paragraph shall be  
2           payable to each child until the child attains age  
3           eighteen."

4           SECTION 7. Section 88-339, Hawaii Revised Statutes, is  
5           amended by amending subsections (a) and (b) to read as follows:

6           "(a) In the case of an accidental death as determined by  
7           the board pursuant to section 88-85.5, there shall be paid to  
8           the member's designated beneficiary or to the member's estate  
9           the amount of the member's accumulated contributions and there  
10          shall be paid in lieu of the ordinary death benefit payable  
11          under section 88-338 a pension of one-half of the average final  
12          compensation of the member:

13           (1) To the surviving spouse or surviving reciprocal  
14           beneficiary of the member to continue until the  
15           surviving spouse or surviving reciprocal beneficiary  
16           remarries, marries, or enters into a new reciprocal  
17           beneficiary relationship; provided that payments shall  
18           continue to a surviving spouse or surviving reciprocal  
19           beneficiary of a police officer, firefighter, deputy  
20           sheriff, or public safety officer who remarries,  
21           marries, or enters into a new reciprocal beneficiary  
22           relationship;



1 (2) If there [~~be~~] is no surviving spouse or surviving  
2 reciprocal beneficiary, or if the surviving spouse or  
3 surviving reciprocal beneficiary dies or remarries,  
4 marries, or enters into a new reciprocal beneficiary  
5 relationship before any child of the deceased member  
6 shall have attained the age of eighteen years, then to  
7 the deceased member's child or children under that  
8 age, divided in a manner as the board in its  
9 discretion shall determine, to continue as a joint and  
10 survivor pension of one-half of the deceased member's  
11 final compensation until every child dies, or attains  
12 that age; [~~or~~] provided that this paragraph shall not  
13 apply if payments are being made to a surviving spouse  
14 or surviving reciprocal beneficiary of a police  
15 officer, firefighter, deputy sheriff, or public safety  
16 officer, unless the surviving spouse or surviving  
17 reciprocal beneficiary dies before any child of the  
18 deceased member attains the age of eighteen years; or

19 (3) If there is no surviving spouse or reciprocal  
20 beneficiary and no child under the age of eighteen  
21 years surviving the deceased member, then to the  
22 deceased member's dependent father or dependent





1 mother, as the deceased member shall have nominated by  
2 written designation duly acknowledged and filed with  
3 the board, or if there is no nomination, then to the  
4 deceased member's dependent father or to the deceased  
5 member's dependent mother as the board, in its  
6 discretion, shall direct to continue for life.

7 The pension shall be effective on the first day of the month  
8 following the member's death, except for the month of December,  
9 when benefits shall be effective on the first or last day of the  
10 month.

11 (b) Notwithstanding any other law to the contrary, any  
12 condition of impairment of health caused by any disease of the  
13 heart, lungs, or respiratory system, resulting in death to a  
14 sewer worker shall be presumed to have been suffered in the  
15 actual performance of duty at some definite time and place  
16 through no wilful negligence on the sewer worker's part, and as  
17 a result of the inherent occupational hazard of exposure to and  
18 inhalation of smoke, toxic gases, chemical fumes, and other  
19 toxic vapors, unless the contrary [be] is shown by competent  
20 evidence; provided that the sewer worker shall have passed a  
21 physical examination on entry into that service or subsequent to



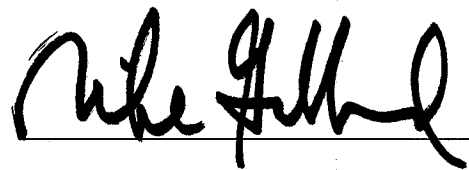
1 entry, which examination failed to reveal any evidence of [the]  
2 that condition."

3 SECTION 8. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect upon its approval.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Mike Gill", is written over a horizontal line.

**Report Title:**

Employees' Retirement System; Surviving Spouse or Reciprocal Beneficiary Benefits

**Description:**

Allows the surviving spouse or surviving reciprocal beneficiary of a police officer, firefighter, deputy sheriff, or public safety officer in the employees' retirement system who died in the line of duty to remarry, marry, or enter into a new reciprocal beneficiary relationship and to continue to receive pension and other retirement benefits arising from their former spouse's employment. Allows for the reinstatement of benefits.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

