

H.B. NO. 1038

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. Section 88-45, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§88-45 Employee contributions.** After June 30, 1988, each
4 class A and class B member shall contribute seven and eight-
5 tenths per cent of the member's compensation to the annuity
6 savings fund; provided that after June 30, 1989, all
7 firefighters, police officers, corrections officers,
8 investigators of the departments of the prosecuting attorney and
9 of the attorney general, narcotics enforcement investigators,
10 water safety officers not making the election under section 88-
11 271, and public safety investigations staff investigators shall
12 contribute twelve and two-tenths per cent of their compensation
13 to the annuity savings fund for service in that capacity[-];
14 provided further that each class A and class B member who
15 becomes a member after June 30, 2012, shall contribute nine and
16 eight-tenths per cent of the member's compensation to the
17 annuity savings fund; provided further that all firefighters,
18 police officers, corrections officers, investigators of the

1 departments of the prosecuting attorney and of the attorney
2 general, narcotics enforcement investigators, and public safety
3 investigations staff investigators who become members after June
4 30, 2012, shall contribute fourteen and two-tenths per cent of
5 their compensation to the annuity savings fund for service in
6 that capacity."

7 SECTION 2. Section 88-62, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§88-62 Return to service of a former member.** (a) For
10 members who became members before July 1, 2012:

11 (1) If a former member who has less than five years of
12 credited service and who has been out of service for a
13 period of four full calendar years or more after the
14 year in which the former member left service, or if a
15 former member who withdrew the former member's
16 accumulated contributions returns to service, the
17 former member shall become a member in the same manner
18 and under the same conditions as anyone first entering
19 service; however, the former member may obtain
20 membership service credit in the manner provided by
21 applicable law for credited service that was forfeited
22 by the member upon termination of the member's

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1 previous membership. If the member did not withdraw
2 the former member's accumulated contributions prior to
3 the former member's return to service, the accumulated
4 contributions shall be returned to the member as part
5 of the process of enrolling the member in the system
6 if the member's accumulated contributions are \$1,000
7 or less at the time of distribution. If the
8 accumulated contributions for the service the member
9 had when the member previously terminated employment
10 are greater than \$1,000 and the member does not make
11 written application, prior to or contemporaneously
12 with the member's return to service, for return of the
13 accumulated contributions, the member may not withdraw
14 the member's accumulated contributions, except as
15 provided by section 88-96 or 88-341, until the member
16 retires or attains age sixty-two. The member shall
17 not be entitled to service credit by reason of the
18 system's retention of the member's accumulated
19 contributions for the service the member had when the
20 member previously terminated employment. To be
21 eligible for any benefit, the member shall fulfill the
22 membership service requirements for the benefit

1 through membership service after again becoming a
2 member, in addition to meeting any other eligibility
3 requirement established for the benefit; provided that
4 the membership service requirement shall be exclusive
5 of any former service acquired in accordance with
6 section 88-59 or any other section in part II, VII, or
7 VIII.

8 ~~[(b)]~~ (2) If a former member with less than five years of
9 credited service and who did not withdraw the former
10 member's accumulated contributions returns to service
11 within four full calendar years after the year in
12 which the former member left service, the former
13 member shall again become a member in the same manner
14 and under the same conditions as anyone first entering
15 service, except that the member shall be credited with
16 service credit for the service the member had when the
17 member terminated employment and:

18 ~~[(1)]~~ (A) If the member returns to service as a class
19 A or class B member, the member's new and
20 previous accumulated contributions shall be
21 combined; or

1 ~~(2)~~ (B) If the member returns to service after June
2 30, 2006, as a class H member, section 88-321(b)
3 shall apply.

4 ~~(e)~~ (3) If a former member with five or more years of
5 credited service who did not withdraw his
6 contributions returns to service, his status shall be
7 in accordance with the provisions described in section
8 88-97.

9 (b) For members who become members after June 30, 2012:

10 (1) If a former member who has less than ten years of
11 credited service and who has been out of service for a
12 period of four full calendar years or more after the
13 year in which the former member left service, or if a
14 former member who withdrew the former member's
15 accumulated contributions returns to service, the
16 former member shall become a member in the same manner
17 and under the same conditions as anyone first entering
18 service; however, the former member may obtain
19 membership service credit in the manner provided by
20 applicable law for credited service that was forfeited
21 by the member upon termination of the member's
22 previous membership. If the member did not withdraw

1 the former member's accumulated contributions prior to
2 the former member's return to service, the accumulated
3 contributions shall be returned to the member as part
4 of the process of enrolling the member in the system
5 if the member's accumulated contributions are \$1,000
6 or less at the time of distribution. If the
7 accumulated contributions for the service the member
8 had when the member previously terminated employment
9 are greater than \$1,000 and the member does not make
10 written application, prior to or contemporaneously
11 with the member's return to service, for return of the
12 accumulated contributions, the member may not withdraw
13 the member's accumulated contributions, except as
14 provided by section 88-96 or 88-341, until the member
15 retires or attains age sixty-two. The member shall
16 not be entitled to service credit by reason of the
17 system's retention of the member's accumulated
18 contributions for the service the member had when the
19 member previously terminated employment. To be
20 eligible for any benefit, the member shall fulfill the
21 membership service requirements for the benefit
22 through membership service after again becoming a

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1 member, in addition to meeting any other eligibility
2 requirement established for the benefit; provided that
3 the membership service requirement shall be exclusive
4 of any former service acquired in accordance with
5 section 88-59 or any other section in part II, VII, or
6 VIII.

7 (2) If a former member with less than ten years of
8 credited service and who did not withdraw the former
9 member's accumulated contributions returns to service
10 within four full calendar years after the year in
11 which the former member left service, the former
12 member shall again become a member in the same manner
13 and under the same conditions as anyone first entering
14 service, except that the member shall be credited with
15 service credit for the service the member had when the
16 member terminated employment and:

17 (A) If the member returns to service as a class A or
18 class B member, the member's new and previous
19 accumulated contributions shall be combined; or

20 (B) If the member returns to service as a class H
21 member, section 88-321(b) shall apply.

1 (3) If a former member with ten or more years of credited
 2 service who did not withdraw the former member's
 3 contributions returns to service, the former member's
 4 status shall be in accordance with the provisions
 5 described in section 88-97."

6 SECTION 3. Section 88-73, Hawaii Revised Statutes, is
 7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) Any member who:

9 (1) Became a member before July 1, 2012, and has at least
 10 five years of credited service and [who] has attained
 11 age fifty-five [or any member who has];

12 (2) Has at least twenty-five years of credited service [or
 13 any member who has];

14 (3) Has at least ten years of credited service, which
 15 includes service as a judge before July 1, 1999, an
 16 elective officer, or a legislative officer[~~r~~]; or

17 (4) Becomes a member after June 30, 2012, and has at least
 18 ten years of credited service and has attained age
 19 fifty-five;

20 shall become eligible to receive a retirement allowance after
 21 the member has terminated service.

1 (b) Any member who first earned credited service as a
 2 judge after June 30, 1999, but before July 1, 2012, and who has
 3 at least five years of credited service and has attained age
 4 fifty-five or has at least twenty-five years of credited service
 5 shall become eligible to receive a retirement allowance after
 6 the member has terminated service. Any member who first earned
 7 credited service as a judge after June 30, 2012, and has at
 8 least ten years of credited service and has attained age fifty-
 9 five or has at least twenty-five years of credited service shall
 10 be eligible to receive a retirement allowance after the member
 11 has terminated service."

12 SECTION 4. Section 88-74 , Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§88-74 Allowance on service retirement.** (a) Upon
 15 retirement from service, a member shall receive a maximum
 16 retirement allowance as [~~follows:~~] provided in this section.

17 [~~(1)~~] (b) If [~~the~~] a member, who became a member before
 18 July 1, 2012, has attained age fifty-five, [a] the member's
 19 maximum retirement allowance [~~of~~] shall be two per cent of the
 20 member's average final compensation multiplied by the total
 21 number of years of the member's credited service as a class A
 22 and B member, excluding any credited service as a judge,

1 elective officer, or legislative officer, plus a retirement
2 allowance of one and one-fourth per cent of the member's average
3 final compensation multiplied by the total number of years of
4 prior credited service as a class C member, plus a retirement
5 allowance of two per cent of the member's average final
6 compensation multiplied by the total number of years of prior
7 credited service as a class H member; provided that:

8 ~~[(A)]~~ (1) After June 30, 1968, if the member has at least
9 ten years of credited service of which the last five
10 or more years prior to retirement is credited service
11 as a firefighter, police officer, or an investigator
12 of the department of the prosecuting attorney;

13 ~~[(B)]~~ (2) After June 30, 1977, if the member has at least
14 ten years of credited service of which the last five
15 or more years prior to retirement is credited service
16 as a corrections officer;

17 ~~[(C)]~~ (3) After June 16, 1981, if the member has at least
18 ten years of credited service of which the last five
19 or more years prior to retirement is credited service
20 as an investigator of the department of the attorney
21 general;

1 ~~[(D)]~~ (4) After June 30, 1989, if the member has at least
2 ten years of credited service of which the last five
3 or more years prior to retirement is credited service
4 as a narcotics enforcement investigator;

5 ~~[(E)]~~ (5) After December 31, 1993, if the member has at
6 least ten years of credited service of which the last
7 five or more years prior to retirement is credited
8 service as a water safety officer;

9 ~~[(F)]~~ (6) After June 30, 1994, if the member has at least
10 ten years of credited service, of which the last five
11 or more years prior to retirement are credited service
12 as a public safety investigations staff investigator;

13 ~~[(G)]~~ (7) After June 30, 2002, if the member:

14 ~~[(i)]~~ (A) Has at least ten years of credited service
15 as a firefighter;

16 ~~[(ii)]~~ (B) Is deemed permanently medically
17 disqualified due to a service related disability
18 to be a firefighter by the employer's physician;
19 and

20 ~~[(iii)]~~ (C) Continues employment in a class A or B
21 position other than a firefighter; and

22 ~~[(H)]~~ (8) After June 30, 2004, if the member:

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

1 ~~(2)~~ (c) If ~~the~~ a member, who became a member prior to
2 July 1, 2012, has credited service as a judge, the member's
3 retirement allowance shall be computed on the following basis:

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

11 ~~(B)~~ (2) For a member who first earned credited service as
12 a judge after June 30, 1999, for each year of credited
13 service as a judge, three and one-half per cent of the
14 member's average final compensation in addition to an
15 annuity that is the actuarial equivalent of the
16 member's accumulated contributions allocable to the
17 period of service. If the member has not attained age
18 fifty-five, the member's retirement allowance shall be
19 computed as though the member had attained age fifty-
20 five, reduced for age as provided in subsection ~~(b)~~
21 ~~e~~ (e);

1 ~~[(C)]~~ (3) For a member who first earned credited service
2 as a judge after June 30, 2012, for each year of
3 credited service as a judge, three per cent of the
4 member's average final compensation in addition to an
5 annuity that is the actuarial equivalent of the
6 member's accumulated contributions allocable to the
7 period of service. If the member has not attained age
8 fifty-five, the member's retirement allowance shall be
9 computed as though the member had attained age fifty-
10 five, reduced for age as provided in subsection (e);
11 or

12 (4) For a judge with other credited service, as provided
13 in ~~[paragraph (1)].~~ subsection (b). If the member has
14 not attained age fifty-five, the member's retirement
15 allowance shall be computed as though the member had
16 attained age fifty-five, reduced for age as provided
17 in subsection ~~[(b)].~~ (e);

18 ~~[(D)]~~ (5) For a judge with credited service as an elective
19 officer or as a legislative officer, as provided in
20 ~~[paragraph (3)].~~ subsection (d).

21 No allowance shall exceed seventy-five per cent of the member's
22 average final compensation. If the allowance exceeds this

1 limit, it shall be adjusted by reducing the annuity included in
2 [~~subparagraphs (A) and (B)~~] paragraphs (1), (2), and (3) and the
3 portion of the accumulated contributions specified in [~~the~~
4 ~~subparagraphs~~] paragraphs (1), (2), and (3) in excess of the
5 requirements of the reduced annuity shall be returned to the
6 member upon the member's retirement or paid to the member's
7 designated beneficiary upon the member's death while in service
8 or while on authorized leave without pay. The allowance for
9 judges under this paragraph, together with the retirement
10 allowance provided by the federal government for similar
11 service, shall in no case exceed seventy-five per cent of the
12 member's average final compensation[~~or~~].

13 [~~3~~] (d) If [~~the~~] a member, who became a member before
14 July 1, 2012, has credited service as an elective officer or as
15 a legislative officer, the member's retirement allowance shall
16 be derived by adding the allowances computed separately under
17 [~~subparagraphs (A), (B), (C), and (D)~~] paragraphs (1), (2), (3),
18 (4), (5), and (6) as follows:

19 [~~(A) Irrespective~~] (1) For a member who has credited
20 service as an elective officer before July 1, 2012,
21 irrespective of age, for each year of credited service
22 as an elective officer, three and one-half per cent of

1 the member's average final compensation as computed
2 under section 88-81(e) (1), in addition to an annuity
3 that is the actuarial equivalent of the member's
4 accumulated contributions allocable to the period of
5 service; and

6 (2) For a member, who first earned credited service as an
7 elective officer after June 30, 2012, irrespective of
8 age, for each year of credited service as an elective
9 officer, three per cent of the member's average final
10 compensation as computed under section 88-81(e) (1), in
11 addition to an annuity that is the actuarial
12 equivalent of the member's accumulated contributions
13 allocable to the period of service; and

14 [~~(B)~~ Irrespective] (3) For a member who has credited
15 service as a legislative officer before July 1, 2012,
16 irrespective of age, for each year of credited service
17 as a legislative officer, three and one-half per cent
18 of the member's average final compensation as computed
19 under section 88-81(e) (2), in addition to an annuity
20 that is the actuarial equivalent of the member's
21 accumulated contributions allocable to the period of
22 service;

1 (4) For a member who first earned credited service as a
2 legislative officer after June 30, 2012, irrespective
3 of age, for each year of credited service as a
4 legislative officer, three per cent of the member's
5 average final compensation as computed under section
6 88-81(e)(2), in addition to an annuity that is the
7 actuarial equivalent of the member's accumulated
8 contributions allocable to the period of service;

9 [~~(C)~~] (5) If the member has credited service as a judge,
10 the member's retirement allowance shall be computed on
11 the following basis:

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

21 [~~(ii)~~] (B) For a member who first earned credited
22 service as a judge after June 30, 1999, but

1 before July 1, 2012, and has attained the age of
2 fifty-five, for each year of credited service as
3 a judge, three and one-half per cent of the
4 member's average final compensation as computed
5 under section 88-81(e)(3), in addition to an
6 annuity that is the actuarial equivalent of the
7 member's accumulated contributions allocable to
8 the period of service. If the member has not
9 attained age fifty-five, the member's retirement
10 allowance shall be computed as though the member
11 had attained age fifty-five, reduced for age as
12 provided in subsection (b); and

13 (C) For a member who first earned credited service as
14 a judge after June 30, 2012, and has attained the
15 age of fifty-five, for each year of credited
16 service as a judge, three per cent of the
17 member's average final compensation as computed
18 under section 88-81(e)(3), in addition to an
19 annuity that is the actuarial equivalent of the
20 member's accumulated contributions allocable to
21 the period of service. If the member has not
22 attained age fifty-five, the member's retirement

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

4 [~~(D)~~] (6) For each year of credited service not included
5 in [~~subparagraph (A), (B), or (C),~~] paragraph (1),
6 (2), (3), (4), or (5) the average final compensation
7 as computed under section 88-81(e)(4) shall be
8 multiplied by two per cent for credited service earned
9 as a class A or class H member, two and one-half per
10 cent for credited service earned as a class B member,
11 and one and one-quarter per cent for credited service
12 earned as a class C member. If the member has not
13 attained age fifty-five, the member's retirement
14 allowance shall be computed as though the member had
15 attained age fifty-five, reduced for age as provided
16 in subsection [~~(b)~~.] (e).

17 The total retirement allowance shall not exceed seventy-five per
18 cent of the member's highest average final compensation
19 calculated under section 88-81(e)(1), (2), (3), or (4). If the
20 allowance exceeds this limit, it shall be adjusted by reducing
21 any annuity accrued under [~~subparagraphs (A), (B), and (C)~~]
22 paragraphs 1, 2, 3, 4, and 5 and the portion of the accumulated

1 contributions specified in these [~~subparagraphs~~] paragraphs in
2 excess of the requirements of the reduced annuity shall be
3 returned to the member upon the member's retirement or paid to
4 the member's designated beneficiary upon the member's death
5 while in service or while on authorized leave without pay. If a
6 member has service credit as an elective officer or as a
7 legislative officer in addition to service credit as a judge,
8 then the retirement benefit calculation contained in this
9 [~~paragraph~~] subsection shall supersede the formula contained in
10 [~~paragraph (2)~~] subsection (c).

11 [~~(b)~~] (e) Except as provided in [~~subsection (a)~~]
12 subsections (b), (c), and (d), if a member, who became a member
13 before July 1, 2012, has not attained age fifty-five at the date
14 of retirement, the member's retirement allowance shall be
15 reduced, for each month the member's age at the date of
16 retirement is below age fifty-five, as follows:

17 (1) 0.4166 per cent for each month below age fifty-five
18 and above age forty-nine and eleven months; plus

19 (2) 0.3333 per cent for each month below age fifty and
20 above age forty-four and eleven months; plus

21 (3) 0.2500 per cent for each month below age forty-five
22 and above age thirty-nine and eleven months; plus

1 (4) 0.1666 per cent for each month below age forty;
2 provided that no reduction shall be made if the member has at
3 least twenty-five years of credited service as a firefighter,
4 police officer, corrections officer, investigator of the
5 department of the prosecuting attorney, investigator of the
6 department of the attorney general, narcotics enforcement
7 investigator, public safety investigations staff investigator,
8 sewer worker, or water safety officer, of which the last five or
9 more years prior to retirement is credited service in these
10 capacities.

11 (f) If a member, who becomes a member after June 30, 2012,
12 has attained age fifty-five, the member's maximum retirement
13 allowance shall be one and three-quarters per cent of the
14 member's average final compensation multiplied by the total
15 number of years of the member's credited service as a class A
16 and B member, excluding any credited service as a judge,
17 elective officer, or legislative officer, plus a retirement
18 allowance of one and one-fourth per cent of the member's average
19 final compensation multiplied by the total number of years of
20 prior credited service as a class C member, plus a retirement
21 allowance of one and three-quarters per cent of the member's
22 average final compensation multiplied by the total number of

1 years of prior credited service as a class H member; provided
2 that:

3 (1) If the member has at least ten years of credited
4 service of which the last five or more years prior to
5 retirement is credited service as a firefighter,
6 police officer, or an investigator of the department
7 of the prosecuting attorney;

8 (2) If the member has at least ten years of credited
9 service of which the last five or more years prior to
10 retirement is credited service as a corrections
11 officer;

12 (3) If the member has at least ten years of credited
13 service of which the last five or more years prior to
14 retirement is credited service as an investigator of
15 the department of the attorney general;

16 (4) If the member has at least ten years of credited
17 service of which the last five or more years prior to
18 retirement is credited service as a narcotics
19 enforcement investigator;

20 (5) If the member has at least ten years of credited
21 service of which the last five or more years prior to

1 retirement is credited service as a water safety
2 officer;

3 (6) If the member has at least ten years of credited
4 service, of which the last five or more years prior to
5 retirement are credited service as a public safety
6 investigations staff investigator;

7 (7) If the member:

8 (A) Has at least ten years of credited service as a
9 firefighter;

10 (B) Is deemed permanently medically disqualified due
11 to a service related disability to be a
12 firefighter by the employer's physician; and

13 (C) Continues employment in a class A or B position
14 other than a firefighter; and

15 (8) If the member:

16 (A) Has at least ten years of credited service as a
17 police officer;

18 (B) Is deemed permanently medically disqualified due
19 to a service related disability to be a police
20 officer by the employer's physician; and

21 (C) Continues employment in a class A or B position
22 other than a police officer;

1 then for each year of service as a firefighter, police officer,
2 corrections officer, investigator of the department of the
3 prosecuting attorney, investigator of the department of the
4 attorney general, narcotics enforcement investigator, water
5 safety officer, or public safety investigations staff
6 investigator, the retirement allowance shall be two and one-
7 quarter per cent of the member's average final compensation.
8 The maximum retirement allowance for those members shall not
9 exceed eighty per cent of the member's average final
10 compensation. If the member has not attained age fifty-five,
11 the member's retirement allowance shall be computed as though
12 the member had attained age fifty-five, reduced for age as
13 provided in subsection (i).

14 (g) If a member, who becomes a member after June 30, 2012,
15 has credited service as a judge, the member's retirement
16 allowance shall be computed on the following basis:

17 (1) For each year of credited service as a judge, three
18 per cent of the member's average final compensation in
19 addition to an annuity that is the actuarial
20 equivalent of the member's accumulated contributions
21 allocable to the period of service. If the member has
22 not attained age fifty-five, the member's retirement

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

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

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

13 No allowance shall exceed seventy-five per cent of the member's
14 average final compensation. If the allowance exceeds this
15 limit, it shall be adjusted by reducing the annuity included in
16 paragraph (1) and the portion of the accumulated contributions
17 specified in paragraph (1) in excess of the requirements of the
18 reduced annuity shall be returned to the member upon the
19 member's retirement or paid to the member's designated
20 beneficiary upon the member's death while in service or while on
21 authorized leave without pay. The allowance for judges under
22 this subsection, together with the retirement allowance provided

1 by the federal government for similar service, shall in no case
2 exceed seventy-five per cent of the member's average final
3 compensation.

4 (h) If a member, who becomes a member after June 30, 2012,
5 has credited service as an elective officer or as a legislative
6 officer, the member's retirement allowance shall be derived by
7 adding the allowances computed separately under paragraphs (1),
8 (2), (3), and (4) as follows:

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

15 (2) Irrespective of age, for each year of credited service
16 as a legislative officer, three per cent of the
17 member's average final compensation as computed under
18 section 88-81(f) (2), in addition to an annuity that is
19 the actuarial equivalent of the member's accumulated
20 contributions allocable to the period of service;

21 (3) Irrespective of age, for each year of credited service
22 as a judge, three per cent of the member's average

1 final compensation as computed under section 88-
2 81(f) (3), in addition to an annuity that is the
3 actuarial equivalent of the member's accumulated
4 contributions allocable to the period of service; and
5 (4) For each year of credited service not included in
6 paragraph (1), (2), or (3), the average final
7 compensation as computed under section 88-81(f) (4)
8 shall be multiplied by one and three-quarters per cent
9 for credited service earned as a class A or class H
10 member, two and one-quarter per cent for credited
11 service earned as a class B member, and one and one-
12 quarter per cent for credited service earned as a
13 class C member. If the member has not attained age
14 fifty-five, the member's retirement allowance shall be
15 computed as though the member had attained age fifty-
16 five, reduced for age as provided in subsection (i).
17 The total retirement allowance shall not exceed seventy-five per
18 cent of the member's highest average final compensation
19 calculated under section 88-81(f) (1), (2), (3), or (4). If the
20 allowance exceeds this limit, it shall be adjusted by reducing
21 any annuity accrued under paragraphs (1), (2), and (3) and the
22 portion of the accumulated contributions specified in these

1 subparagraphs in excess of the requirements of the reduced
2 annuity shall be returned to the member upon the member's
3 retirement or paid to the member's designated beneficiary upon
4 the member's death while in service or while on authorized leave
5 without pay. If a member has service credit as an elective
6 officer or as a legislative officer in addition to service
7 credit as a judge, then the retirement benefit calculation
8 contained in this subsection shall supersede the formula
9 contained in subsection (g).

10 (i) Except as provided in subsections (f), (g), and (h),
11 if a member, who becomes a member after June 30, 2012, has not
12 attained age fifty-five at the date of retirement, the member's
13 retirement allowance shall be reduced, for each month the
14 member's age at the date of retirement is below age fifty-five,
15 as follows:

16 (1) 0.4166 per cent for each month below age fifty-five
17 and above age forty-nine and eleven months; plus

18 (2) 0.3333 per cent for each month below age fifty and
19 above age forty-four and eleven months; plus

20 (3) 0.2500 per cent for each month below age forty-five
21 and above age thirty-nine and eleven months; plus

22 (4) 0.1666 per cent for each month below age forty;

1 provided that no reduction shall be made if the member has at
2 least twenty-five years of credited service as a firefighter,
3 police officer, corrections officer, investigator of the
4 department of the prosecuting attorney, investigator of the
5 department of the attorney general, narcotics enforcement
6 investigator, public safety investigations staff investigator,
7 sewer worker, water safety officer, or emergency medical
8 technician, of which the last five or more years prior to
9 retirement is credited service in these capacities."

10 SECTION 5. Section 88-74.6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§88-74.6 Unreduced allowance on service retirement; when**
13 **applicable.** In addition to those positions identified in
14 section [~~88-74(b)~~] 88-74(e) and notwithstanding any law in this
15 part that requires a member to attain age fifty-five to qualify
16 for an unreduced service retirement allowance, if [~~the~~] a
17 member, who became a member before July 1, 2012, has at least
18 [~~thirty~~]:

19 (1) Thirty years of credited service through June 30,
20 2003; [~~twenty-nine~~]

21 (2) Twenty-nine years of credited service on or after July
22 1, 2004; [~~twenty-eight~~]

1 (3) Twenty-eight years of credited service on or after
2 July 1, 2005; [~~twenty-seven~~]

3 (4) Twenty-seven years of credited service on or after
4 July 1, 2006; [~~twenty-six~~]

5 (5) Twenty-six years of credited service on or after July
6 1, 2007; [~~and twenty-five~~] or

7 (6) Twenty-five years of credited service on or after July
8 1, 2008 [~~7~~];

9 as an emergency medical technician, of which the last five or
10 more years prior to retirement is credited service in that
11 capacity, then upon retirement and irrespective of age, that
12 member's service retirement allowance shall not be reduced for
13 actuarial purposes."

14 SECTION 6. Section 88-81, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§88-81 Average final compensation.** (a) Average final
17 compensation is the average annual compensation pay or salary
18 upon which a member has made contributions as required by parts
19 II, VII, and VIII of this chapter.

20 (b) The average final compensation of members shall be
21 calculated as follows:

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1 (1) For employees who become members [~~prior to~~] before
2 January 1, 1971:

3 (A) During the member's five highest paid years of
4 credited service, including vacation pay, or the
5 three highest paid years of credited service
6 excluding vacation pay, whichever is greater; or

7 (B) If the member has less than three years of
8 credited service, during the member's actual
9 years of credited service.

10 (2) For employees who become members [~~on or after January~~
11 ~~1, 1971:~~] after December 31, 1970, but before July 1,
12 2012:

13 (A) During the member's three highest paid years of
14 credited service, excluding vacation pay; or

15 (B) If the member has less than three years of
16 credited service, during the member's actual
17 years of credited service.

18 (3) For employees who become members after June 30, 2012:

19 (A) During the member's five highest paid years of
20 credited service, excluding vacation pay; or

1 (B) If the member has less than five years of
2 credited service, during the member's actual
3 years of credited service.

4 (c) In computing the compensation of a judge, the
5 compensation paid to the judge by the United States as well as
6 by the Territory shall be included.

7 (d) For service rendered as a member of the legislature
8 from and after November 5, 1968, the actual annual salary of a
9 member shall be the only amount used for determining the
10 member's average final compensation. For service rendered as a
11 member of the legislature prior to November 5, 1968, and after
12 admission of this State into the Union, the annual compensation
13 of a member shall be computed, for the purpose of determining
14 the member's average final compensation, as follows: during a
15 year in which a general session was held, it shall be deemed to
16 have been an amount equal to four times the salary of a member
17 of the legislature for a general session; and during a year in
18 which a budget session was held, it shall be deemed to have been
19 an amount equal to six times the salary of a member of the
20 legislature for a budget session. For service rendered as a
21 member of the legislature prior to the admission of this State
22 into the Union, the annual compensation of a member shall be

1 deemed to have been four times the salary of a member of the
2 legislature for a regular session for each year during the
3 member's term of office.

4 (e) If a member, who became a member before July 1, 2012,
5 has credited service rendered as an elective officer or as a
6 legislative officer, the member's average final compensation
7 shall be computed separately for each category of service as
8 follows:

9 (1) For the three highest paid years of credited service
10 as an elective officer, or if the member has less than
11 three years of credited service in that capacity, then
12 the member's actual years of credited service;

13 (2) For the three highest paid years of credited service
14 as a legislative officer, or if the member has less
15 than three years of credited service in that capacity,
16 then the member's actual years of credited service;

17 (3) For the three highest paid years of credited service
18 as a judge, or if the member has less than three years
19 of credited service in that capacity, then the
20 member's actual years of credited service; and

21 (4) For the three highest paid years of credited service
22 not included in paragraph (1), (2), or (3), or if the

1 member has less than three years of credited service
2 in that capacity, then the member's actual years of
3 credited service.

4 (f) If a member, who becomes a member after June 30, 2012,
5 has credited service rendered as an elective officer or as a
6 legislative officer, the member's average final compensation
7 shall be computed separately for each category of service as
8 follows:

9 (1) For the five highest paid years of credited service as
10 an elective officer, or if the member has less than
11 five years of credited service in that capacity, then
12 the member's actual years of credited service;

13 (2) For the five highest paid years of credited service as
14 a legislative officer, or if the member has less than
15 five years of credited service in that capacity, then
16 the member's actual years of credited service;

17 (3) For the five highest paid years of credited service as
18 a judge, or if the member has less than three years of
19 credited service in that capacity, then the member's
20 actual years of credited service; and

21 (4) For the five highest paid years of credited service
22 not included in paragraph (1), (2), or (3), or if the

1 member has less than five years of credited service in
2 that capacity, then the member's actual years of
3 credited service."

4 SECTION 7. Section 88-90, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§88-90 Post retirement allowances.** (a) There shall be
7 payable to each person receiving any pension, annuity or
8 retirement allowance, a post retirement allowance which shall
9 consist of an amount equivalent to one and one-half per cent of
10 the monthly pension, annuity or retirement allowance as
11 originally computed, approved and paid. This benefit shall be
12 added to the monthly pension, annuity or retirement allowance on
13 the first day of July in each year following June 30, 1961, as
14 follows:

15 (1) To each person receiving a pension, annuity or
16 retirement allowance on June 30, 1961, payment of the
17 benefit shall commence on July 1, 1961, except that
18 after June 30, 1963, the monthly benefits payable
19 under this subsection shall be computed and paid on
20 the basis of the number of years that has elapsed
21 since the person entitled thereto first became the

1 recipient of the pension, annuity or retirement
2 allowance from which the benefit is derived.

3 (2) To each person first receiving a pension, annuity or
4 retirement allowance after June 30, 1961, payment of
5 the benefit shall commence on the first of July
6 following the calendar year in which the payment of
7 the pension, annuity or retirement allowance is
8 effective.

9 (b) After June 30, 1970, the post retirement allowance
10 shall consist of an amount equivalent to two and one-half per
11 cent of the monthly pension, annuity or retirement allowance as
12 originally computed and paid. This benefit shall be payable on
13 the first day of July in each year following June 30, 1970, as
14 follows:

15 (1) To each person, who on June 30, 1970, was receiving a
16 post retirement allowance as described under
17 subsection (a) hereof, payment of the benefit shall
18 commence on July 1, 1970.

19 (2) To each person first receiving a pension, annuity or
20 retirement allowance after December 31, 1968, payment
21 of the benefit shall commence on the first day of July
22 following the calendar year in which the payment of

1 the pension, annuity or retirement allowance is
2 effective.

3 (c) Notwithstanding subsections (a) and (b), for employees
4 who become members after June 30, 2012, and for any person who
5 receives a monthly pension, annuity or retirement allowance as a
6 beneficiary or survivor of the employee, the post-retirement
7 allowance shall consist of an amount equivalent to one and one
8 half per cent of the monthly pension, annuity or retirement
9 allowance as originally computed and paid. Payment of the
10 benefit shall commence on the first day of July following the
11 calendar year in which the payment of the pension, annuity or
12 retirement allowance is effective."

13 SECTION 8. Section 88-96, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) Any member who ceases to be an employee and who
16 became a member before July 1, 2012, and has fewer than five
17 years of credited service, excluding unused sick leave, or who
18 becomes a member after June 30, 2012, and has fewer than ten
19 years of credited service, excluding sick leave, shall, upon
20 application to the board, [~~shall~~] be paid all of the member's
21 accumulated contributions and the member's membership shall
22 thereupon terminate and all credited service shall be forfeited;

1 provided that a member shall not be paid the member's
2 accumulated contributions:

3 (1) If the member becomes an employee again within fifteen
4 calendar days from the date the member ceased to be an
5 employee; or

6 (2) If, at the time the application for return of
7 accumulated contributions is received by the board,
8 the member has become an employee again.

9 Regular interest shall be credited to the former employee's
10 account until the former employee's accumulated contributions
11 are returned to the former employee; provided that the former
12 employee's membership shall not continue after the fourth full
13 year following the calendar year in which the individual's
14 employment terminates. Upon termination of the former
15 employee's membership, the former employee's credited service
16 shall be forfeited and, if the former employee's accumulated
17 contributions are \$1,000 or less at the time of distribution,
18 the system shall return the former employee's contributions to
19 the former employee. If the former employee does not become an
20 employee again and if the former employee's accumulated
21 contributions have not been withdrawn by the former employee or
22 previously returned by the system to the former employee, the

1 system shall return the former employee's accumulated
2 contributions to the former employee as soon as possible after
3 the former employee attains age sixty-two.

4 (b) Any member [~~having five or more years of credited~~
5 ~~service~~] who ceases to be an employee[~~7~~] and who became a member
6 before July 1, 2012, and has more than five years of credited
7 service, excluding unused sick leave, or who becomes a member
8 after June 30, 2012, and has more than ten years of credited
9 service, excluding sick leave, shall, upon application to the
10 board, [~~shall~~] be paid all of the member's accumulated
11 contributions and thereupon the former employee's membership
12 shall terminate and all credited service shall be forfeited;
13 provided that a member shall not be paid the member's
14 accumulated contributions:

15 (1) If the member becomes an employee again within fifteen
16 calendar days from the date the member ceased to be an
17 employee; or

18 (2) If, at the time the application for return of
19 accumulated contributions is received by the board,
20 the member has become an employee again.

21 If the contributions are not withdrawn by the former
22 employee within four calendar years following the calendar year

1 in which the former employee's employment terminates, the former
2 employee shall have established vested benefit status and shall
3 be eligible for the service retirement benefit in effect at the
4 time of the former employee's retirement, payable in accordance
5 with this chapter; provided that if the former employee
6 withdraws the former employee's accumulated contributions, the
7 former employee's vested benefit status shall terminate and all
8 credited service shall be forfeited."

9 SECTION 9. Section 88-311, Hawaii Revised Statutes, is
10 amended by amending the definition of "hypothetical account
11 balance" to read as follows:

12 ""Hypothetical account balance" means:

13 (1) For members who became members before July 1, 2012,

14 the sum of:

15 [~~(A)~~] (A) One and one-half times the sum of:

16 [~~(A)~~] (i) Employee contributions made, either
17 by the member or on behalf of the
18 member, pursuant to section 88-325;
19 and

20 [~~(B)~~] (ii) Accumulated interest at the regular
21 interest rate on the employee
22 contributions; and

1 ~~[(2)]~~ (B) Any employee contributions, including
2 rollovers and contributions used to convert
3 credited service to class H credited service, or
4 used to purchase service, and accumulated
5 interest on the employee contributions at the
6 regular interest rate~~[-]~~; or

7 (2) For members who become members after June 30, 2012,
8 the sum of:

9 (A) One and one-fifth times the sum of:

10 (i) Employee contributions made, either by the
11 member or on behalf of the member, pursuant
12 to section 88-325; and

13 (ii) Accumulated interest at the regular
14 interest rate on the employee
15 contributions; and

16 (B) Any employee contributions, including rollovers
17 and contributions used to convert credited
18 service to class H credited service, or used to
19 purchase service, and accumulated interest on the
20 employee contributions at the regular interest
21 rate."

1 SECTION 10. Section 88-325, Hawaii Revised Statutes, is
2 amended to read as follows:

3 ~~+[§88-325+]~~ **Employee contributions.** (a) Each class H
4 member, who became a member before July 1, 2012, shall
5 contribute six per cent of the member's compensation to the
6 annuity savings fund; provided that each sewer worker, water
7 safety officer, and emergency medical technician who became a
8 member before July 1, 2012, and is a class H member shall
9 contribute nine and [~~seventy-five one-hundredths~~] three-quarters
10 per cent of the member's compensation to the annuity savings
11 fund for service in that capacity.

12 (b) Each class H member, who becomes a member after June
13 30, 2012, shall contribute eight per cent of the member's
14 compensation to the annuity savings fund; provided that each
15 sewer worker, water safety officer, and emergency medical
16 technician who becomes a member after June 30, 2012, and is a
17 class H member shall contribute eleven and three-quarters per
18 cent of the member's compensation to the annuity savings fund
19 for service in that capacity."

20 SECTION 11. Section 88-331, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

22 "(a) A class H member who:

- 1 (1) Became a member before July 1, 2012, and has at least
- 2 five years of credited service and has attained age
- 3 sixty-two[~~, or a class H member with~~];
- 4 (2) Has at least thirty years of credited service [who]
- 5 and has attained the age of fifty-five; or
- 6 (3) Becomes a member after June 30, 2012, and has at least
- 7 ten years of credited service and has attained age
- 8 sixty-two;

9 shall become eligible to receive a retirement allowance after
10 the member has terminated service."

11 SECTION 12. Section 88-332, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§88-332 Service retirement allowance.** (a) Upon
14 retirement from service, a class H member who became a member
15 before July 1, 2012, shall receive a maximum retirement
16 allowance as follows:

- 17 (1) If the member has met the requirements in section 88-
- 18 331(a), (b), or (d), a maximum retirement allowance of
- 19 two per cent of the average final compensation
- 20 multiplied by the number of years of class H credited
- 21 service, plus a retirement allowance at the rate of
- 22 one and one-fourth per cent of the member's average

1 final compensation multiplied by the number of years
2 of class C credited service; or

3 (2) If the member has met the requirements in section 88-
4 331(c), an early retirement allowance equal to the
5 maximum retirement allowance calculated as provided in
6 paragraph (1), reduced by 0.4166 per cent for each
7 month the member is less than age sixty-two at
8 retirement.

9 (b) Upon retirement from service, a class H member who
10 became a member after June 30, 2012, shall receive a maximum
11 retirement allowance as follows:

12 (1) If the member has met the requirements in section 88-
13 331(a), (b), or (d), a maximum retirement allowance of
14 one and three-quarters per cent of the average final
15 compensation multiplied by the number of years of
16 class H credited service, plus a retirement allowance
17 at the rate of one and one-fourth per cent of the
18 member's average final compensation multiplied by the
19 number of years of class C credited service; or

20 (2) If the member has met the requirements in section 88-
21 331(c), an early retirement allowance equal to the
22 maximum retirement allowance calculated as provided in

1 paragraph (1), reduced by 0.4166 per cent for each
2 month the member is less than age sixty-two at
3 retirement."

4 SECTION 13. Section 88-341, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) Any class H member who ceases to be an employee and
7 who became a member before July 1, 2012, and has fewer than five
8 years of credited service, excluding unused sick leave, or who
9 becomes a member after June 30, 2012, and has fewer than ten
10 years of credited service, excluding unused sick leave, shall,
11 upon application to the board, be paid all of the former
12 employee's accumulated contributions, and the former employee's
13 membership shall thereupon terminate and all credited service
14 shall be forfeited; provided that an individual shall not be
15 paid the individual's accumulated contributions if either:

16 (1) The individual becomes an employee again within
17 fifteen calendar days from the date the individual
18 ceased to be an employee; or

19 (2) At the time the application for return of accumulated
20 contributions is received by the board, the individual
21 has become an employee again.

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1 Regular interest shall be credited to the former employee's
2 account until the former employee's accumulated contributions
3 are withdrawn; provided that the former employee's membership
4 shall not continue after the fourth full year following the
5 calendar year in which the individual's employment terminates.
6 If the former employee does not become an employee again and has
7 not withdrawn the former employee's accumulated contributions,
8 the system shall return the former employee's accumulated
9 contributions to the former employee as soon as possible after
10 the former employee attains age sixty-two.

11 (b) Any class H member [~~having five or more years of~~
12 ~~credited service~~] who ceases to be an employee[~~7~~] and who became
13 a member before July 1, 2012, and has more than five years of
14 credited service, excluding unused sick leave, or who becomes a
15 member after June 30, 2012, and has more than ten years of
16 credited service, excluding sick leave, shall, upon application
17 to the board, [~~shall~~] be paid an amount equal to the former
18 employee's hypothetical account balance and the former
19 employee's membership shall thereupon terminate and all credited
20 service shall be forfeited; provided that the individual shall
21 not be paid the individual's hypothetical account balance if
22 either:

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1 (1) The individual becomes an employee again within
2 fifteen calendar days from the date the individual
3 ceased to be an employee; or

4 (2) At the time the application for payment of the
5 individual's hypothetical account balance is received
6 by the board, the individual has become an employee
7 again.

8 If the contributions are not withdrawn by the former
9 employee after the individual's employment terminates, the
10 former employee shall have vested benefit status and shall be
11 eligible for the service retirement benefit in effect at the
12 time of the former employee's retirement, payable in accordance
13 with this chapter."

14 SECTION 14. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 15. This Act shall take effect on July 1, 2012.

17
18 INTRODUCED BY: Calvin K. Y. Ay
19

BY REQUEST

JAN 24 2011

HB 1078

Report Title:

Employees' Retirement System

Description:

Provides for retirement benefits for State and county employees who become members of the Employees' Retirement System after June 30, 2012.

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

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

PURPOSE: To provide for retirement benefits for State and county employees who become members of the Employees' Retirement System of the State of Hawaii after June 30, 2012 that are different from the retirement benefits of current employees.

MEANS: Amend sections 88-45, 88-62, 88-73(a) and (b), 88-74, 88-74.6, 88-81, 88-90, 88-96(a) and (b), 88-311(a), 88-325, 88-331, 88-332, and 88-341(a) and (b), Hawaii Revised Statutes.

JUSTIFICATION: If the public employee retirement benefit structure is not changed, the financial soundness of the retirement system will be threatened, public employer costs will become increasingly burdensome to the employers and ultimately to the taxpayers, and vital government programs may be jeopardized because of the need to use operational funds to pay for employee benefits. This bill proposes to make the following changes that will be applicable to new State and county employees:

- (1) Reduce the "multiplier" for benefit accrual;
- (2) Reduce the post-retirement allowance from two and one-half per cent to one and one-half percent;
- (3) Increase the period for calculating "average final compensation" from three years to five years;
- (4) Raise the employee contribution rate;

- (5) Increase the "vesting" period from five to ten years; and
- (6) Reduce the "hypothetical account balance" for members of the "hybrid" plan.

Impact on the public: None.

Impact on the department and other agencies:
The proposed changes will help to control the increase in the cost of employee benefits for State and county employers.

GENERAL FUND: See above.

OTHER FUNDS: See above.

PPBS PROGRAM
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED
AGENCIES: All state and county public employers.

EFFECTIVE DATE: July 1, 2012.