



GOV. MSG. NO. 1256

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 25, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813


Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 25, 2012, the following bill was signed into law:

HB2487 HD1 SD2 CD1

RELATING TO THE EMPLOYEES' RETIREMENT
SYSTEM.

Act 153 (12)

Aloha
Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

ORIGINAL

on JUN 25 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 153

H.B. NO. 2487
H.D. 1
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. Section 88-74, Hawaii Revised Statutes, is
3 amended as follows:

4 1. By amending subsection (f) to read:

5 "(f) If a member, who becomes a member after June 30,
6 2012, has attained age sixty, the member's maximum retirement
7 allowance shall be one and three-fourths per cent of the
8 member's average final compensation multiplied by the total
9 number of years of the member's credited service as a class A
10 and class B member, excluding any credited service as a judge,
11 elective officer, or legislative officer, plus a retirement
12 allowance of one and one-fourth per cent of the member's average
13 final compensation multiplied by the total number of years of
14 prior credited service as a class C member, plus a retirement
15 allowance of one and three-fourths per cent of the member's
16 average final compensation multiplied by the total number of
17 years of prior credited service as a class H member; provided
18 that:

HB2487 CD1 HMS 2012-3802



- 1 (1) If the member has at least ten years of credited
2 service of which the last five or more years prior to
3 retirement is credited service as a firefighter,
4 police officer, or an investigator of the department
5 of the prosecuting attorney;
- 6 (2) If the member has at least ten years of credited
7 service of which the last five or more years prior to
8 retirement is credited service as a corrections
9 officer;
- 10 (3) If the member has at least ten years of credited
11 service of which the last five or more years prior to
12 retirement is credited service as an investigator of
13 the department of the attorney general;
- 14 (4) If the member has at least ten years of credited
15 service of which the last five or more years prior to
16 retirement is credited service as a narcotics
17 enforcement investigator;
- 18 ~~[(5) If the member has at least ten years of credited~~
19 ~~service of which the last five or more years prior to~~
20 ~~retirement is credited service as a water safety~~
21 ~~officer;~~



1 ~~(6)~~ (5). If the member has at least ten years of credited
2 service, of which the last five or more years prior to
3 retirement is credited service as a public safety
4 investigations staff investigator;

5 ~~(7)~~ (6) If the member:

6 (A) Has at least ten years of credited service as a
7 firefighter;

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

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

13 ~~(8)~~ (7) If the member:

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

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

19 (C) Continues employment in a class A or class B
20 position other than a police officer,

21 then for each year of service as a firefighter, police officer,
22 corrections officer, investigator of the department of the



1 prosecuting attorney, investigator of the department of the
2 attorney general, narcotics enforcement investigator, [water
3 ~~safety officer,~~] or public safety investigations staff
4 investigator, the retirement allowance shall be two and one-
5 fourth per cent of the member's average final compensation. The
6 maximum retirement allowance for those members shall not exceed
7 eighty per cent of the member's average final compensation. If
8 the member has not attained age sixty, the member's retirement
9 allowance shall be computed as though the member had attained
10 age sixty, reduced for age as provided in subsection (i)."

11 2. By amending subsection (i) to read:

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

- 18 (1) 0.4166 per cent for each month below age [~~fifty-nine~~
19 sixty and above age fifty-four and eleven months; plus
20 (2) 0.3333 per cent for each month below age fifty-five
21 and above age forty-nine and eleven months; plus



1 (3) 0.2500 per cent for each month below age fifty and
2 above age forty-four and eleven months; plus

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

14 SECTION 2. Section 88-81, Hawaii Revised Statutes, is
15 amended as follows:

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

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



1 2. By amending subsection (f) to read:

2 "(f) If a member, who becomes a member after June 30,
3 2012, has credited service rendered as an elective officer or as
4 a legislative officer, the member's average final compensation
5 shall be computed separately for each category of service as
6 follows:

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

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

15 (3) For the five highest paid years of credited service as
16 a judge, or if the member has fewer than [~~three~~] five
17 years of credited service in that capacity, then the
18 member's actual years of credited service; and

19 (4) For the five highest paid years of credited service
20 not included in paragraph (1), (2), or (3), or if the
21 member has fewer than five years of credited service



1 in that capacity, then the member's actual years of
2 credited service."

3 SECTION 3. Section 88-335, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§88-335 Ordinary disability retirement allowance.** (a)

6 Upon retirement for ordinary disability, a class H member who
7 became a member before July 1, 2012, shall receive a maximum
8 retirement allowance equal to the higher of either:

9 (1) Two per cent of the average final compensation
10 multiplied by the number of years of class H credited
11 service unreduced for age, plus one and one-fourth per
12 cent of the member's average final compensation
13 multiplied by the number of years of class C credited
14 service unreduced for age; or

15 (2) Twenty-five per cent of the member's average final
16 compensation.

17 (b) Upon retirement for ordinary disability, a class H
18 member who becomes a member after June 30, 2012, shall receive a
19 maximum retirement allowance equal to the higher of either:

20 (1) One and three-fourths per cent of the average final
21 compensation multiplied by the number of years of
22 class H credited service unreduced for age, plus one



1 and one-fourth per cent of the member's average final
 2 compensation multiplied by the number of years of
 3 class C credited service unreduced for age; or
 4 (2) Twenty-five per cent of the member's average final
 5 compensation."

6 SECTION 4. Section 88-338, Hawaii Revised Statutes, is
 7 amended by amending subsection (a) to read as follows:

8 "(a) Upon receipt by the system of proper proof of a class
 9 H member's death occurring in service or while on authorized
 10 leave without pay and if no pension is payable under section
 11 88-339, there shall be paid to the member's designated
 12 beneficiary an ordinary death benefit as follows:

13 (1) ~~[If the member had less than five years of credited~~
 14 ~~service at the time of death, the] The member's~~
 15 accumulated contributions shall be paid to the
 16 member's designated beneficiary[+] if:

17 (A) The member became a member before July 1, 2012,
 18 and had less than five years of credited service
 19 at the time of death; or

20 (B) The member became a member after June 30, 2012,
 21 and had less than ten years of credited service
 22 at the time of death;



- 1 (2) ~~[If the member had five or more years of credited~~
2 ~~service at the time of death, an] An amount equal to~~
3 the member's hypothetical account balance shall be
4 paid to the member's designated beneficiary[+] if:
5 (A) The member became a member before July 1, 2012,
6 and had five or more years of credited service at
7 the time of death; or
8 (B) The member became a member after June 30, 2012,
9 and had ten or more years of credited service at
10 the time of death;
- 11 (3) If the member had ten or more years of credited
12 service at the time of death, the member's designated
13 beneficiary may elect to receive in lieu of any other
14 payment provided in this section, the allowance that
15 would have been payable as if the member had retired
16 on the first day of a month following the member's
17 death, except for the month of December when
18 retirement on the first or last day of the month shall
19 be allowed. Benefits payable under this paragraph
20 shall be calculated under option 3 of section 88-83
21 and computed on the basis of section 88-332, unreduced
22 for age; or



1 (4) If the member was eligible for service retirement at
2 the time of death, the member's designated beneficiary
3 may elect to receive in lieu of any other payment
4 provided in this section, the allowance that would
5 have been payable as if the member had retired on the
6 first day of a month following the member's death,
7 except for the month of December when retirement on
8 the first or last day of the month shall be allowed.
9 Benefits payable under this paragraph shall be
10 calculated under option 2 of section 88-83 and
11 computed on the basis of section 88-332."

PART II

13 SECTION 5. Chapter 88, Hawaii Revised Statutes, is amended
14 by adding a new section to part II to be appropriately
15 designated and to read as follows:

16 "§88- Payment by employers of costs associated with
17 significant non-base pay increases. (a) The contribution
18 payable in each year to the pension accumulation fund by the
19 State and each county shall include the actuarial present value,
20 as determined by the system, of the excess maximum retirement
21 allowance, payable over the employee's or former employee's
22 actuarial life expectancy, resulting from significant non-base



1 pay increases for each employee or former employee who became a
2 member of the system prior to July 1, 2012. The additional
3 contributions required by this section shall be payable as
4 provided in subsection (e).

5 (b) The last employer of the employee or former employee
6 shall pay the additional contributions required by this section.

7 (c) An excess maximum retirement allowance resulting from
8 significant non-base pay increases occurs when:

9 (1) The employee's or former employee's average non-base
10 pay, divided by the employee's or former employee's
11 average base pay, is greater than ten per cent; and

12 (2) The employee's or former employee's average final
13 compensation non-base pay ratio divided by the
14 comparison period non-base pay ratio is greater than
15 or equal to one-hundred twenty per cent.

16 (d) The amount of the "excess maximum retirement allowance
17 resulting from significant non-base pay increases" is the amount
18 by which an employee's or former employee's maximum retirement
19 allowance exceeds what the employee's or former employee's
20 maximum retirement allowance would be if the employee's or
21 former employee's average final compensation was equal to the
22 employee's or former employee's average base pay multiplied by



1 the sum of one and the employee's or former employee's
2 comparison period non-base pay ratio.

3 (e) The additional contributions required by this section
4 shall be payable in a lump sum in the fiscal year following the
5 fiscal year in which the employee or former employee retired;
6 provided that, if the additional contributions required for the
7 employees or former employees who retire in a fiscal year are
8 greater than ten per cent of the employer's contributions
9 (excluding the additional contributions) to the pension
10 accumulation fund for that fiscal year, the employer may pay the
11 additional contributions over a period of three fiscal years in
12 installments equal to no less than one-third of the original
13 amount of the required additional contributions, plus interest
14 on the unpaid balance, commencing on the first day of the fiscal
15 year following the retirement of the employees or former
16 employees, at an annual rate equal to the investment yield rate
17 assumption for actuarial valuations of the system."

18 SECTION 6. Section 88-21, Hawaii Revised Statutes, is
19 amended by adding eight new definitions to be appropriately
20 inserted and to read as follows:



1 "Average base pay" means the total base pay included in a
2 member's average final compensation, divided by the number of
3 years used to determine average final compensation.

4 "Average final compensation non-base pay ratio" means the
5 average non-base pay divided by the average base pay.

6 "Average non-base pay" means the total non-base pay
7 included in a member's average final compensation divided by the
8 number of years used to determine the member's average final
9 compensation.

10 "Base pay" means the normal periodic payments of money for
11 service, the right to which accrues on a regular basis in
12 proportion to the service performed; recurring differentials;
13 and elective salary reduction contributions under sections 125,
14 403(b), and 457(b) of the Internal Revenue Code of 1986, as
15 amended.

16 "Comparison period" means those years in the ten years of
17 credited service prior to termination of service that are not
18 included in the period for determining a member's average final
19 compensation or, if the member has less than ten years of
20 credited service prior to termination of service, the years of
21 the member's credited service that are not included in the
22 determination of the member's average final compensation.



