

# S.B. NO. 2749

JAN 25 2012

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## A BILL FOR AN ACT

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RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. Section 88-73, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Any member who became a member before July 1, 2012,  
4 and first earned credited service as a judge after June 30,  
5 1999, [but before July 1, 2012,] and who [has]:

6 (1) Has at least five years of credited service and has  
7 attained age fifty-five; or [has]

8 (2) Has at least twenty-five years of credited service,  
9 shall become eligible to receive a retirement allowance after  
10 the member has terminated service. [~~Any member who first earned~~  
11 ~~credited service as a judge after June 30, 2012, and has at~~  
12 ~~least ten years of credited service and has attained age sixty~~  
13 ~~or has at least twenty five years of credited service and has~~  
14 ~~attained age fifty five shall be eligible to receive a~~  
15 ~~retirement allowance after the member has terminated service.]"~~

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

18 (1) By amending subsection (c) to read as follows:

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

- 4           (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;
- 11          (2) For a member who first earned credited service as a  
12          judge after June 30, 1999, but before July 1, 2012,  
13          for each year of credited service as a judge, three  
14          and one-half per cent of the member's average final  
15          compensation in addition to an annuity that is the  
16          actuarial equivalent of the member's accumulated  
17          contributions allocable to the period of service. If  
18          the member has not attained age fifty-five, the  
19          member's retirement allowance shall be computed as  
20          though the member had attained age fifty-five, reduced  
21          for age as provided in subsection (e);
- 22          (3) For a member who first earned credited service as a  
23          judge after June 30, 2012, for each year of credited

1 service as a judge, three per cent of the member's  
2 average final compensation 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. If the member has not attained age [~~sixty,~~  
6 fifty-five, the member's retirement allowance shall be  
7 computed as though the member had attained age  
8 [~~sixty,~~ fifty-five, reduced for age as provided in  
9 subsection [~~(i),~~ (e);

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

16 (5) For a judge with credited service as an elective  
17 officer or as a legislative officer, as provided in  
18 subsection (d).

19 No allowance shall exceed seventy-five per cent of the member's  
20 average final compensation. If the allowance exceeds this  
21 limit, it shall be adjusted by reducing the annuity included in  
22 paragraphs (1), (2), and (3) and the portion of the accumulated  
23 contributions specified in paragraphs (1), (2), and (3) in

1 excess of the requirements of the reduced annuity shall be  
2 returned to the member upon the member's retirement or paid to  
3 the member's designated beneficiary upon the member's death  
4 while in service or while on authorized leave without pay. The  
5 allowance for judges under this subsection, together with the  
6 retirement allowance provided by the federal government for  
7 similar service, shall in no case exceed seventy-five per cent  
8 of the member's average final compensation."

9 (2) By amending subsection (d) to read as follows:

10 "(d) If a member, who became a member before July 1, 2012,  
11 has credited service as an elective officer or as a legislative  
12 officer, the member's retirement allowance shall be derived by  
13 adding the allowances computed separately under paragraphs (1),  
14 (2), (3), (4), (5), and (6) as follows:

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

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- 1           (2) For a member, who first earned credited service as an  
2           elective officer after June 30, 2012, irrespective of  
3           age, for each year of credited service as an elective  
4           officer, three per cent of the member's average final  
5           compensation as computed under section 88-81(e)(1), in  
6           addition to an annuity that is the actuarial  
7           equivalent of the member's accumulated contributions  
8           allocable to the period of service;
- 9           (3) For a member who has credited service as a legislative  
10          officer before July 1, 2012, irrespective of age, for  
11          each year of credited service as a legislative  
12          officer, three and one-half per cent of the member's  
13          average final compensation as computed under section  
14          88-81(e)(2), in addition to an annuity that is the  
15          actuarial equivalent of the member's accumulated  
16          contributions allocable to the period of service;
- 17          (4) For a member who first earned credited service as a  
18          legislative officer after June 30, 2012, irrespective  
19          of age, for each year of credited service as a  
20          legislative officer, three per cent of the member's  
21          average final compensation as computed under section  
22          88-81(e)(2), in addition to an annuity that is the

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1 actuarial equivalent of the member's accumulated  
2 contributions allocable to the period of service;  
3 (5) If the member has credited service as a judge, the  
4 member's retirement allowance shall be computed on the  
5 following basis:

6 (A) For a member who has credited service as a judge  
7 before July 1, 1999, irrespective of age, for  
8 each year of credited service as a judge, three  
9 and one-half per cent of the member's average  
10 final compensation as computed under section 88-  
11 81(e)(3), in addition to an annuity that is the  
12 actuarial equivalent of the member's accumulated  
13 contributions allocable to the period of service;

14 (B) For a member who first earned credited service as  
15 a judge after June 30, 1999, but before July 1,  
16 2012, and has attained the age of fifty-five, for  
17 each year of credited service as a judge, three  
18 and one-half per cent of the member's average  
19 final compensation as computed under section 88-  
20 81(e)(3), in addition to an annuity that is the  
21 actuarial equivalent of the member's accumulated  
22 contributions allocable to the period of service.  
23 If the member has not attained age fifty-five,

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

5 (C) For a member who first earned credited service as  
6 a judge after June 30, 2012, and has attained the  
7 age of [~~sixty,~~] fifty-five, for each year of  
8 credited service as a judge, three per cent of  
9 the member's average final compensation as  
10 computed under section 88-81(e) (3), in addition  
11 to an annuity that is the actuarial equivalent of  
12 the member's accumulated contributions allocable  
13 to the period of service. If the member has not  
14 attained age [~~sixty,~~] fifty-five, the member's  
15 retirement allowance shall be computed as though  
16 the member had attained age [~~sixty,~~] fifty-five,  
17 reduced for age as provided in subsection [~~(i);~~]  
18 (e); and

19 (6) For each year of credited service not included in  
20 paragraph (1), (2), (3), (4), or (5), the average final  
21 compensation as computed under section 88-81(e) (4)  
22 shall be multiplied by two per cent for credited  
23 service earned as a class A or class H member, two and

1 one-half per cent for credited service earned as a  
2 class B member, and one and one-quarter per cent for  
3 credited service earned as a class C member. If the  
4 member has not attained age fifty-five, the member's  
5 retirement allowance shall be computed as though the  
6 member had attained age fifty-five, reduced for age as  
7 provided in subsection (e).

8 The total retirement allowance shall not exceed seventy-five per  
9 cent of the member's highest average final compensation  
10 calculated under section 88-81(e) (1), (2), (3), or (4). If the  
11 allowance exceeds this limit, it shall be adjusted by reducing  
12 any annuity accrued under paragraphs 1, 2, 3, 4, and 5 and the  
13 portion of the accumulated contributions specified in these  
14 paragraphs in excess of the requirements of the reduced annuity  
15 shall be returned to the member upon the member's retirement or  
16 paid to the member's designated beneficiary upon the member's  
17 death while in service or while on authorized leave without pay.  
18 If a member has service credit as an elective officer or as a  
19 legislative officer in addition to service credit as a judge,  
20 then the retirement benefit calculation contained in this  
21 subsection shall supersede the formula contained in subsection  
22 (c)."

23 (3) By amending subsection (f) to read as follows:



1           " (f) If a member, who becomes a member after June 30,  
2 2012, has attained age sixty, the member's maximum retirement  
3 allowance shall be one and three-fourths per cent of the  
4 member's average final compensation multiplied by the total  
5 number of years of the member's credited service as a class A  
6 and class B member, excluding any credited service as a judge,  
7 elective officer, or legislative officer, plus a retirement  
8 allowance of one and one-fourth per cent of the member's average  
9 final compensation multiplied by the total number of years of  
10 prior credited service as a class C member, plus a retirement  
11 allowance of one and three-fourths per cent of the member's  
12 average final compensation multiplied by the total number of  
13 years of prior credited service as a class H member; provided  
14 that:

15           (1) If the member has at least ten years of credited  
16 service of which the last five or more years prior to  
17 retirement is credited service as a firefighter,  
18 police officer, or an investigator of the department  
19 of the prosecuting attorney;

20           (2) If the member has at least ten years of credited  
21 service of which the last five or more years prior to  
22 retirement is credited service as a corrections  
23 officer;

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1 (3) 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 an investigator of  
4 the department of the attorney general;

5 (4) If the member has at least ten years of credited  
6 service of which the last five or more years prior to  
7 retirement is credited service as a narcotics  
8 enforcement investigator;

9 ~~[-(5) If the member has at least ten years of credited  
10 service of which the last five or more years prior to  
11 retirement is credited service as a water safety  
12 officer,]~~

13 ~~[-(6)]~~ (5) If the member has at least ten years of credited  
14 service, of which the last five or more years prior to  
15 retirement is credited service as a public safety  
16 investigations staff investigator;

17 ~~[-(7)]~~ (6) If the member:

18 (A) Has at least ten years of credited service as a  
19 firefighter;

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

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1 (C) Continues employment in a class A or class B  
2 position other than a firefighter; and  
3 ~~[(8)]~~ (7) If the member:  
4 (A) Has at least ten years of credited service as a  
5 police officer;  
6 (B) Is deemed permanently medically disqualified due  
7 to a service related disability to be a police  
8 officer by the employer's physician; and  
9 (C) Continues employment in a class A or class B  
10 position other than a police officer,  
11 then for each year of service as a firefighter, police officer,  
12 corrections officer, investigator of the department of the  
13 prosecuting attorney, investigator of the department of the  
14 attorney general, narcotics enforcement investigator, ~~water~~  
15 ~~safety officer,~~ or public safety investigations staff  
16 investigator, the retirement allowance shall be two and one-  
17 fourth per cent of the member's average final compensation. The  
18 maximum retirement allowance for those members shall not exceed  
19 eighty per cent of the member's average final compensation. If  
20 the member has not attained age sixty, the member's retirement  
21 allowance shall be computed as though the member had attained  
22 age sixty, reduced for age as provided in subsection (i)."

23 (4) By amending subsection (i) to read as follows:

1            "(i) Except as provided in subsections (f), (g), and (h),  
2 if a member, who becomes a member after June 30, 2012, has not  
3 attained age sixty at the date of retirement, the member's  
4 retirement allowance shall be reduced, for each month the  
5 member's age at the date of retirement is below age sixty, as  
6 follows:

7            (1) 0.4166 per cent for each month below age [~~fifty-nine~~  
8            sixty and above age fifty-four and eleven months; plus

9            (2) 0.3333 per cent for each month below age fifty-five  
10            and above age forty-nine and eleven months; plus

11            (3) 0.2500 per cent for each month below age fifty and  
12            above age forty-four and eleven months; plus

13            (4) 0.1666 per cent for each month below age forty-five;

14 provided that no reduction shall be made if the member has  
15 attained the age of fifty-five and has at least twenty-five  
16 years of credited service as a firefighter, police officer,  
17 corrections officer, investigator of the department of the  
18 prosecuting attorney, investigator of the department of the  
19 attorney general, narcotics enforcement investigator, public  
20 safety investigations staff investigator, sewer worker, water  
21 safety officer, or emergency medical technician, of which the  
22 last five or more years prior to retirement is credited service  
23 in these capacities."

1 SECTION 3. Section 88-81, Hawaii Revised Statutes, is  
2 amended as follows:

3 (1) By amending subsection (a) to read as follows:

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

8 (2) By amending subsection (f) to read as follows:

9 "(f) If a member, who becomes a member after June 30,  
10 2012, has credited service rendered as an elective officer or as  
11 a legislative officer, the member's average final compensation  
12 shall be computed separately for each category of service as  
13 follows:

14 (1) For the five highest paid years of credited service as  
15 an elective officer, or if the member has fewer than  
16 five years of credited service in that capacity, then  
17 the member's actual years of credited service;

18 (2) For the five highest paid years of credited service as  
19 a legislative officer, or if the member has fewer than  
20 five years of credited service in that capacity, then  
21 the member's actual years of credited service;

22 (3) For the five highest paid years of credited service as  
23 a judge, or if the member has fewer than [~~three~~] five

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

3 (4) For the five highest paid years of credited service  
4 not included in paragraph (1), (2), or (3), or if the  
5 member has fewer than five years of credited service  
6 in that capacity, then the member's actual years of  
7 credited service."

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

10 "§88-335 Ordinary disability retirement allowance. (a)  
11 Upon retirement for ordinary disability, a class H member who  
12 became a member before July 1, 2012, shall receive a maximum  
13 retirement allowance equal to the higher of either:

14 (1) Two per cent of the average final compensation  
15 multiplied by the number of years of class H credited  
16 service unreduced for age, plus one and one-fourth per  
17 cent of the member's average final compensation  
18 multiplied by the number of years of class C credited  
19 service unreduced for age; or

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

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

- 4        (1) One and three-fourths per cent of the average final  
5 compensation multiplied by the number of years of  
6 class H credited service unreduced for age, plus one  
7 and one-fourth per cent of the member's average final  
8 compensation multiplied by the number of years of  
9 class C credited service unreduced for age; or  
10       (2) Twenty-five per cent of the member's average final  
11 compensation."

12       SECTION 5. Section 88-338, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14       "(a) Upon receipt by the system of proper proof of a class  
15 H member's death occurring in service or while on authorized  
16 leave without pay and if no pension is payable under section 88-  
17 339, there shall be paid to the member's designated beneficiary  
18 an ordinary death benefit as follows:

- 19       (1) [~~If the member had less than five years of credited~~  
20 ~~service at the time of death, the]~~ The member's  
21 accumulated contributions shall be paid to the  
22 member's designated beneficiary[+] if:

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

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

7           (2) [~~If the member had five or more years of credited~~  
8                   ~~service at the time of death, an~~] An amount equal to  
9                   the member's hypothetical account balance shall be  
10                  paid to the member's designated beneficiary[+] if:

11           (A) The member became a member before July 1, 2012,  
12                   and had five or more years of credited service at  
13                   the time of death; or

14           (B) The member became a member after June 30, 2012,  
15                   and had ten or more years of credited service at  
16                   the time of death;

17           (3) If the member had ten or more years of credited  
18                   service at the time of death, the member's designated  
19                   beneficiary may elect to receive in lieu of any other  
20                   payment provided in this section, the allowance that  
21                   would have been payable as if the member had retired  
22                   on the first day of a month following the member's  
23                   death, except for the month of December when



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1 retirement on the first or last day of the month shall  
 2 be allowed. Benefits payable under this paragraph  
 3 shall be calculated under option 3 of section 88-83  
 4 and computed on the basis of section 88-332, unreduced  
 5 for age; or

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

17 SECTION 6. Statutory material to be repealed is bracketed  
 18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 2011.

21 INTRODUCED BY: 

22 BY REQUEST

23

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**Report Title:**

Employees' Retirement System

**Description:**

Corrects errors; harmonizes ordinary disability and ordinary death benefits for new members of the Employees' Retirement System with their service retirement benefits; and harmonizes age and service requirements for judges who are currently members of the Employees' Retirement System with the requirements for other contributory plan members.

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

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

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

PURPOSE: To correct typographical and nonsubstantive errors in sections 88-74 and 88-81, Hawaii Revised Statutes, to harmonize the service retirement, ordinary disability retirement and ordinary death benefits for Employees' Retirement System members who become members of the system after June 30, 2012, and to restore parity, with respect to age and service requirements for retirement, between current members who become judges after June 30, 2012, and other contributory plan members who are currently members.

MEANS: Amend sections 88-73(b), 88-74, 88-81, 88-335, and 88-338, Hawaii Revised Statutes.

JUSTIFICATION: Prior to the enactment of Act 163, Session Laws of Hawaii 2011, the age and service requirements for retirement for judges were the same as for other contributory plan members who became members of the Employees' Retirement System at the same time. Act 163 enacted more stringent age and service requirements for retirement by members of the system who become members of the system after June 30, 2012, and for current members of the system who become judges after June 30, 2012. As a result, current members of the system who become judges after June 30, 2012, are subject to more stringent age and service requirements than other contributory plan members who became members of the system at the same time. The proposed amendments to sections 88-73(b) and 88-74(c) and (d) restore parity between judges and other contributory plan members with respect to age and service requirements for retirement.

Section 88-74(f) refers to water safety officers who join the Employees' Retirement System after June 30, 2011, as contributory plan members. Any water safety officer who becomes a member of the system after June 30, 2011, must join the system as a "Hybrid Plan" member. Therefore, reference to water safety officers should be deleted from section 88-74(f).

Sections 88-74(i) and 88-81(a) and (f) contain typographical errors that should be corrected to avoid confusion.

Section 88-335 provides for ordinary disability retirement benefits based on a "multiplier" of two percent, which is the multiplier for "service" retirement benefits for individuals who become members of the system before July 1, 2012; however, the service retirement multiplier for individuals who become members of the system after June 30, 2012, is one and three-fourths per cent. The bill changes the ordinary disability retirement multiplier for individuals who become members of the system after June 30, 2011, to the same multiplier as for their service retirement benefits.

Section 88-338(a) allows the beneficiary of a "Hybrid Plan" member who dies with five or more years of credited service to receive an ordinary death benefit equal to the deceased member's "hypothetical account balance" (generally, one and one-half or one and one-fifth times the amount of a member's contributions and compounded interest on the contributions); however, an individual who becomes a member of the system after June 30, 2012, must have at least ten years of credited service to be eligible to withdraw the member's hypothetical account balance upon termination of service. The bill amends section 88-338(a) to make the minimum service period required for payment of the

hypothetical account balance as an ordinary death benefit for a member who becomes a member of the system after June 30, 2012, consistent with the minimum service period for inter vivos withdrawals by the member.

Impact on the public: None.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: July 1, 2011.