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# 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 88-73, 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 subsections (c) and (d) to read:

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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);



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

12 (4) For a judge with other credited service, as provided  
13 in subsection (b). 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 (e);  
17 or

18 (5) For a judge with credited service as an elective  
19 officer or as a legislative officer, as provided in  
20 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 paragraphs (1), (2), and (3) and the portion of the accumulated  
3 contributions specified in paragraphs (1), (2), and (3) in  
4 excess of the requirements of the reduced annuity shall be  
5 returned to the member upon the member's retirement or paid to  
6 the member's designated beneficiary upon the member's death  
7 while in service or while on authorized leave without pay. The  
8 allowance for judges under this subsection, together with the  
9 retirement allowance provided by the federal government for  
10 similar service, shall in no case exceed seventy-five per cent  
11 of the member's average final compensation.

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

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



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



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

5 (5) If the member has credited service as a judge, the  
6 member's retirement allowance shall be computed on the  
7 following basis:

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

16 (B) For a member who first earned credited service as  
17 a judge after June 30, 1999, but before July 1,  
18 2012, and has attained the age of fifty-five, for  
19 each year of credited service as a judge, three  
20 and one-half per cent of the member's average  
21 final compensation as computed under section 88-  
22 81(e)(3), in addition to an annuity that is the



1 actuarial equivalent of the member's accumulated  
2 contributions allocable to the period of service.  
3 If the member has not attained age fifty-five,  
4 the member's retirement allowance shall be  
5 computed as though the member had attained age  
6 fifty-five, reduced for age as provided in  
7 subsection (e); and

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



1           (6) For each year of credited service not included in  
2           paragraph (1), (2), (3), (4), or (5), the average  
3           final compensation as computed under section 88-  
4           81(e)(4) shall be multiplied by two per cent for  
5           credited service earned as a class A or class H  
6           member, two and one-half per cent for credited service  
7           earned as a class B member, and one and one-quarter  
8           per cent for credited service earned as a class C  
9           member. If the member has not attained age fifty-  
10          five, the member's retirement allowance shall be  
11          computed as though the member had attained age fifty-  
12          five, reduced for age as provided in subsection (e).  
13          The total retirement allowance shall not exceed seventy-five per  
14          cent of the member's highest average final compensation  
15          calculated under section 88-81(e)(1), (2), (3), or (4). If the  
16          allowance exceeds this limit, it shall be adjusted by reducing  
17          any annuity accrued under paragraphs 1, 2, 3, 4, and 5 and the  
18          portion of the accumulated contributions specified in these  
19          paragraphs in excess of the requirements of the reduced annuity  
20          shall be returned to the member upon the member's retirement or  
21          paid to the member's designated beneficiary upon the member's  
22          death while in service or while on authorized leave without pay.





1 If a member has service credit as an elective officer or as a  
2 legislative officer in addition to service credit as a judge,  
3 then the retirement benefit calculation contained in this  
4 subsection shall supersede the formula contained in subsection  
5 (c)."

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

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

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



1 retirement is credited service as a firefighter,  
2 police officer, or an investigator of the department  
3 of the prosecuting attorney;

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

8 (3) 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 an investigator of  
11 the department of the attorney general;

12 (4) 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 a narcotics  
15 enforcement investigator;

16 ~~[-5] 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 water safety~~  
19 ~~officer;~~

20 ~~[-6]~~ (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 public safety  
2 investigations staff investigator;

3 ~~[(7)]~~ (6) If the member:

4 (A) Has at least ten years of credited service as a  
5 firefighter;

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

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

11 ~~[(8)]~~ (7) If the member:

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

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

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

19 then for each year of service as a firefighter, police officer,  
20 corrections officer, investigator of the department of the  
21 prosecuting attorney, investigator of the department of the  
22 attorney general, narcotics enforcement investigator, ~~[water~~



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

9 3. By amending subsection (i) to read:

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 sixty 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 sixty, as  
15 follows:

16 (1) 0.4166 per cent for each month below age [~~fifty-nine~~  
17 sixty and above age fifty-four and eleven months; plus

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

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

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



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

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

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

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

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

19 "(f) If a member, who becomes a member after June 30,  
 20 2012, has credited service rendered as an elective officer or as  
 21 a legislative officer, the member's average final compensation



1 shall be computed separately for each category of service as  
2 follows:

3 (1) For the five highest paid years of credited service as  
4 an elective officer, or if the member has fewer than  
5 five years of credited service in that capacity, then  
6 the member's actual years of credited service;

7 (2) For the five highest paid years of credited service as  
8 a legislative 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 (3) For the five highest paid years of credited service as  
12 a judge, or if the member has fewer than [~~three~~] five  
13 years of credited service in that capacity, then the  
14 member's actual years of credited service; and

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

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

1           "§88-335 Ordinary disability retirement allowance. (a)

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

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

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

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

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



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

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

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

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

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

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

20           (2) [~~If the member had five or more years of credited~~  
21           ~~service at the time of death, an~~] An amount equal to





1 the member's hypothetical account balance shall be  
2 paid to the member's designated beneficiary[?] if:

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

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

9 (3) If the member had ten or more years of credited  
10 service at the time of death, the member's designated  
11 beneficiary may elect to receive in lieu of any other  
12 payment provided in this section, the allowance that  
13 would have been payable as if the member had retired  
14 on the first day of a month following the member's  
15 death, except for the month of December when  
16 retirement on the first or last day of the month shall  
17 be allowed. Benefits payable under this paragraph  
18 shall be calculated under option 3 of section 88-83  
19 and computed on the basis of section 88-332, unreduced  
20 for age; or

21 (4) If the member was eligible for service retirement at  
22 the time of death, the member's designated beneficiary



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

10          SECTION 6. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12          SECTION 7. This Act shall take effect on July 1, 2012.



**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. Harmonizes age and service requirements for judges who are currently members of the Employees' Retirement System with the requirements for other contributory plan members. Effective July 1, 2012. (SB2749 HD1)

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

