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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. The purpose of this Act is to maintain the  
2 employees' retirement system of the State of Hawaii's (the  
3 "system") federal tax qualification requirements by conforming  
4 chapter 88, Hawaii Revised Statutes, to the updated requirements  
5 of the Internal Revenue Code of 1986, as amended, regarding  
6 automatic disbursements, including required minimum  
7 distributions, by the SECURE 2.0 Act of 2022.

8       SECTION 2. Section 88-74.7, Hawaii Revised Statutes, is  
9 amended to read as follows:

10       "**§88-74.7 Commencement of benefits on required beginning**  
11 **date.** (a) The purpose of this section is to provide for  
12 distribution of benefits in accordance with a reasonable and  
13 good faith interpretation of section 401(a)(9) of the Internal  
14 Revenue Code. Section 401(a)(9) of the Internal Revenue Code  
15 requires that the "entire interest" of a member be distributed  
16 or that distribution of the member's benefits begin no later  
17 than the member's "required beginning date"~~[=]~~, as defined in



1 section 401(a)(9) of the Internal Revenue Code of 1986, as  
2 amended.

3 ~~[(b) For the purposes of this section, "required beginning~~  
4 ~~date" means April 1 of the calendar year following the calendar~~  
5 ~~year in which a member terminates service or attains age seventy~~  
6 ~~and one-half, whichever is later.~~

7 ~~(e)]~~ (b) A member or former member's accumulated  
8 contributions or hypothetical account balance, as defined in  
9 section 88-311, shall be paid to the member or former member, or  
10 payment of the benefits payable under part II, VII, or VIII of  
11 this chapter shall commence, no later than the member's or  
12 former member's required beginning date. The payment or  
13 payments shall be made on, or beginning no later than, the  
14 member's or former member's required beginning date even if the  
15 member or former member does not apply for payment or file a  
16 retirement application.

17 ~~[(d)]~~ (c) If, by a member's or former member's required  
18 beginning date:

19 (1) The member or former member's accumulated  
20 contributions or hypothetical account balance, as



defined in section 88-311, are not paid to the member  
or former member; or

(2) Payment of the benefits payable under part II, VII, or  
VIII of this chapter do not commence,

the system shall pay the service retirement benefits for which  
the member or former member is eligible pursuant to part II,  
VII, or VIII of this chapter, as applicable, retroactive to the  
member's or former member's required beginning date with regular  
interest.

~~[(e)]~~ (d) If the system does not receive a written  
election from the member or former member under section 88-83,  
88-283, or 88-333, as applicable, prior to the later of the  
member's or former member's required beginning date or sixty  
days following the receipt by the member or former member of  
notice from the system that the member or former member is  
required to make an election, the following election shall be  
deemed to have been made as of the member or former member's  
required beginning date:

(1) If the member or former member is unmarried or has no  
reciprocal beneficiary, the member or former member



1           shall be deemed to have elected the maximum retirement  
2           allowance; or  
3       (2) If the member or former member is married or has a  
4           reciprocal beneficiary, the member or former member  
5           shall be deemed to have elected option 3 under section  
6           88-83, or option A under section 88-283, as  
7           applicable, and to have designated the member's or  
8           former member's spouse or reciprocal beneficiary as  
9           the member's or former member's beneficiary;  
10       provided that if the system receives the written election after  
11       the member's or former member's required beginning date, but  
12       within sixty days following receipt by the member or former  
13       member of notice from the system that the member or former  
14       member is required to make the election, the written election  
15       shall apply, and the member's or former member's retirement  
16       benefit shall be recomputed, based on the written election,  
17       retroactive to the member or former member's required beginning  
18       date. The amount of any underpayment resulting from recomputing  
19       the benefit shall bear regular interest. If recomputing the  
20       benefit results in an overpayment, payments shall be adjusted so



1 that the actuarial equivalent of the benefit to which the member  
2 or former member was correctly entitled shall be paid.

3 ~~[(f)]~~ (e) If the system does not have current information  
4 about the member's or former member's marital or reciprocal  
5 beneficiary status at the time of a deemed election, the  
6 following presumptions shall apply:

7 (1) If the member or former member was married or had a  
8 reciprocal beneficiary at the time the member or  
9 former member last provided information to the system  
10 about the member's or former member's marital or  
11 reciprocal beneficiary status, it shall be presumed  
12 that the member or former member is still married to  
13 the same spouse or is in the same reciprocal  
14 beneficiary relationship. If the system does not have  
15 information as to the age of the spouse or reciprocal  
16 beneficiary, the spouse or reciprocal beneficiary  
17 shall be presumed to be forty years younger than the  
18 member or former member for purposes of computing the  
19 member's or former member's benefit; and

20 (2) If the member or former member was unmarried and did  
21 not have a reciprocal beneficiary at the time the



1 member or former member last provided information to  
2 the system about the member or former member's marital  
3 status, it shall be presumed that the member or former  
4 member is married and that the spouse of the member or  
5 former member is forty years younger than the member  
6 or former member.

7 ~~[(g)]~~ (f) The presumptions in subsection ~~[(f)]~~ (e) shall  
8 cease to apply when the member or former member provides the  
9 system with current information as to the member's or former  
10 member's marital or reciprocal beneficiary status and the age of  
11 the member or former member's spouse or reciprocal beneficiary,  
12 if any, on the member's or former member's required beginning  
13 date. The information shall be provided in a form satisfactory  
14 to the system. At that time, the member's or former member's  
15 retirement allowance shall be recomputed, retroactive to the  
16 member's or former member's required beginning date, based on  
17 the updated information; provided that, except as provided in  
18 subsection ~~[(e)],~~ (d), the member or former member shall not be  
19 permitted to change the member's or former member's retirement  
20 allowance option election or beneficiary; provided further that  
21 the benefit being paid to any member or former member who, on



1 the member's or former member's required beginning date, was  
2 unmarried and did not have a reciprocal beneficiary, but who was  
3 deemed to elect option 3 or option A with an assumed spouse or  
4 reciprocal beneficiary, shall be converted to the maximum  
5 retirement allowance retroactive to the member's or former  
6 member's required beginning date. The amount of any  
7 underpayment resulting from recomputing the benefit shall bear  
8 regular interest. If recomputing the benefit results in an  
9 overpayment, payments shall be adjusted so that the actuarial  
10 equivalent of the benefit to which the member or former member  
11 was correctly entitled shall be paid.

12       ~~[(h)]~~ (g) If the system cannot locate the member or former  
13 member, the member's or former member's benefit shall be payable  
14 only until the end of the member's or former member's life  
15 expectancy, as determined at the member's or former member's  
16 required beginning date. If the member or former member has not  
17 by that time made a claim for benefits, the member or former  
18 member shall be deemed to be deceased at that time. Interest  
19 under subsection ~~[(d)]~~ (c) shall cease on benefits presumed to  
20 be abandoned property, pursuant to part I of chapter 523A, upon



1 payment of the property to the administrator under part I of  
2 chapter 523A.

3 ~~[(i)]~~ (h) Rules necessary for the purposes of this section  
4 shall be adopted as provided in section 88-22.5."

5 SECTION 3. Section 88-321, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) Notwithstanding any other law to the contrary:

8 (1) A class C member who returns to service after June 30,  
9 2006, and who does not return to service as a class A  
10 or class B member shall become a class H member upon  
11 return to service; provided that, if the member is a  
12 former class A or class B member who received a refund  
13 of contributions picked up and paid by the member's  
14 employer pursuant to section 88-46(b), the member may  
15 not become a class H member and shall return to  
16 service as a class C member, unless the refund was  
17 made pursuant to section 88-96 or 88-271(b);

18 (2) A class A or a class B member, who returns to service  
19 after June 30, 2006, but does not have vested benefit  
20 status as provided in section 88-96(b) and who does  
21 not return to service as a class A or class B member,



1 shall become a class H member upon return to service  
2 and the member's credited service as a class A or B  
3 member shall be converted to class C credited service.  
4 The system shall return to the member the member's  
5 accumulated contributions if the member's accumulated  
6 contributions are \$1,000 or less at the time of  
7 distribution. If the member's accumulated  
8 contributions for the class A or B credited service  
9 that was converted to class C credited service are  
10 greater than \$1,000 and the member does not make  
11 written application, contemporaneously with the  
12 member's return to service, for return of such  
13 contributions, the member, except as provided by  
14 section 88-341, may not withdraw the member's  
15 accumulated contributions for the class A or B  
16 credited service that was converted to class C  
17 credited service until the member retires or ~~[attains~~  
18 ~~age sixty-two;]~~ pursuant to sections 88-22.5 and  
19 88-74.7;

20 (3) A class A member who returns to service after June 30,  
21 2008, with vested benefit status and who does not



1 return to service as a class B member shall return to  
2 service as a class A member; and

3 (4) A class B member who returns to service after June 30,  
4 2008, with vested benefit status and who does not  
5 return to service as a class B member shall return to  
6 service as a class A member."

7 SECTION 4. Section 88-341, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

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

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



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

4           Regular interest shall be credited to the former employee's  
5           account until the former employee's accumulated contributions  
6           are withdrawn; provided that the former employee's membership  
7           shall not continue after the fourth full year following the  
8           calendar year in which the individual's employment terminates.

9           If the former employee does not become an employee again and has  
10          not withdrawn the former employee's accumulated contributions,  
11          the system shall return the former employee's accumulated  
12          contributions to the former employee [~~as soon as possible after~~  
13          ~~the later of: (A) the former employee attaining age sixty-two,~~  
14          ~~or (B) the termination of the former employee's membership.]~~  
15          pursuant to sections 88-22.5 and 88-74.7."

16          SECTION 5. Statutory material to be repealed is bracketed  
17          and stricken. New statutory material is underscored.

18          SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Employees' Retirement System; Required Beginning Dates;  
Automatic Payments

**Description:**

Amends chapter 88, HRS, to conform to updated required beginning dates and automatic cashout requirements in the Internal Revenue Code of 1986, as amended. (SD1)

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

