

ACT 127

An Act to Amend Chapter 6 of the Revised Laws of Hawaii 1955, as Amended, Relating to the Employees' Retirement System.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 6-27 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 6-27. Evidence of age of members required. An employee be-

coming a member of the system shall present at such time and in such form as the board shall prescribe evidence of his date of birth.

No statement or record of age or birth made or presented by a member of the system may be impeached by such member or his successors in interest."

SECTION 2. Section 6-38 of the Revised Laws of Hawaii 1955, is hereby amended by adding the following sentences at the end thereof: "For service rendered as a member of the legislature after the admission of this State into the union, the annual compensation of a member shall be computed, for the purpose of determining the member's average final compensation, as follows: during a year in which a general session is held, it shall be deemed to be an amount equal to four times the salary of a member of the legislature for a general session; and during a year in which a budget session is held, it shall be deemed to be an amount equal to six times the salary of a member of the legislature for a budget session. For service rendered as a member of the legislature prior to the admission of this State into the union, the annual compensation of a member shall be deemed to have been four times the salary of a member of the legislature for a regular session for each year during his term of office."

SECTION 3. Section 6-41 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-41. Service retirement. Retirement of a member on a service retirement allowance shall be made by the board as follows:

(a) Any member who has attained the age of fifty-five years or who has twenty-five years of creditable service, may retire upon his written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired.

(b) Any member who has attained the age of seventy years, shall be retired on the first day of the calendar month next succeeding that in which he has attained such age.

(c) Any member who has attained the age of sixty-five may retire and receive a service retirement allowance although he continues to be a member of the legislature."

SECTION 4. Section 6-42 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-42. Allowance on service retirement.

A. Upon retirement for service a member who has attained age sixty-five shall receive a service retirement allowance as follows:

1. An annuity which shall be the actuarial equivalent of that part of his accumulated contributions which he contributed to purchase an additional annuity pursuant to section 6-84, which amount he may withdraw at the time of his retirement in lieu of such annuity; and

2. A retirement allowance equal to one-sixtieth of the average final compensation of the member multiplied by the total number of years of his creditable service reduced for class A members by one two-hundred-eightieth, or one one-hundred-fortieth if the member elected to reduce his contributions as provided in section 6-83, of the part of his average final compensation not in excess of \$4,200 per annum multiplied

by the number of years of his creditable service rendered subsequent to December 31, 1955 for which he received compensation covered by social security.

B. If the member has not attained age sixty-five at the time of service retirement, he shall receive the greater of:

1. A retirement allowance computed as though he had attained age sixty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; or

2. If the member had attained age sixty prior to July 1, 1963:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension equal to one one-hundred-fortieth of his average final compensation multiplied by the number of years of his membership service; and if he has a prior service certificate in full force and effect, an additional pension which shall be equal to one-seventieth of his average final compensation multiplied by the number of his years of service certified to him on his prior service certificate; provided that if the member is a class A member, such pension payable subsequent to the attainment of age sixty-five shall be reduced by one two-hundred-eightieth, or one one-hundred-fortieth if the member elected to reduce his contributions as provided in section 6-83, of the part of his average final compensation not in excess of \$4,200 per annum multiplied by the number of years of his creditable service subsequent to December 31, 1955 for which he received compensation covered by social security.

C. Notwithstanding the foregoing, in the case of a fireman or a policeman, who has attained age sixty or who has attained age fifty-five with twenty-five years of creditable service, the service retirement allowance shall consist of a pension, in addition to the annuity, which shall consist of: (1) one per cent of his average final compensation for each of his first twenty-five years of creditable service rendered after June 30, 1957; (2) three-fourths of one per cent of his average final compensation for each of the next ten years of creditable service after June 30, 1957; and (3) an additional pension, which when added to the annuity provided by the contributions made by the member prior to June 30, 1957, will result in a total retirement allowance of two per cent of his average final compensation for each year of creditable service rendered before July 1, 1957 up to a total of twenty-five years, and one one-half per cent of his average final compensation for each of the next ten years of creditable service before July 1, 1957; provided, however, that if such member retiring under the terms of this section had, at any time subsequent to December 31, 1955, service as a class A member, his pension payable subsequent to the attainment of age sixty-five shall be reduced by one two-hundred-eightieth, or one one-hundred-fortieth if the member elected to reduce his contributions as provided in section 6-83, of the part of his average final compensation not in excess of \$4,200 per annum multiplied by the number of years of his creditable service subsequent to December 31, 1955 for which he received compensation covered by social security. If such a member has attained age fifty-five and has less than twenty-five years of credited service, he shall receive a retirement allowance computed as though he had

attained age sixty, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary.

D. The service retirement allowance of a member who has attained age sixty and who has had ten years of service credit, including service as a judge or an elective officer rendered after May 27, 1961, shall be computed on the following basis: (a) for each year of creditable service as a judge or an elective officer rendered after the admission of this State into the union, 3.4523 per cent of his average final compensation, in addition to the annuity allocable to the period of such service; and (b) for all other creditable service, on the same basis as if this paragraph had not been enacted, to be computed without reference to the amounts creditable under (a) hereof. If he is a class A member, the retirement allowance shall be reduced by one two-hundred-eightieth, or one one-hundred-fortieth if the member elected to reduce his contributions as provided in section 6-83, of the part of his average final compensation not in excess of \$4,200 per annum multiplied by the number of years of his creditable service rendered subsequent to December 31, 1955 for which he received compensation covered by social security. The allowance shall in no case exceed seventy-five per cent of the average final compensation; if it exceeds such limit, it shall be reduced by first reducing the annuity, and such portion of the accumulated contributions as may be in excess of the requirements of the reduced annuity shall be returned to the member. The allowance shall in no case be less than if this paragraph had not been enacted. If such a member has not attained age sixty, the benefit payable under (a) of this paragraph shall be computed as though he had attained age sixty, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary."

SECTION 5. Section 6-45 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-45. Allowance on ordinary disability retirement.

A. Upon retirement for disability, a member shall receive a service retirement allowance if he has attained the age of sixty years; otherwise he shall receive a disability retirement allowance which shall consist of (1) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) a pension equal to one one-hundred-fortieth of his average final compensation multiplied by the number of years of membership service that would have been rendered by him were his service to continue to age sixty, except that for each year of creditable service as a judge or an elective officer rendered after the admission of this State into the union, he shall receive a retirement allowance computed as though he were age sixty as provided in section 6-42D, and except that if a member is a class A member, such pension payable subsequent to the time when the member becomes eligible for a social security benefit shall be reduced by one two-hundred-eightieth of the part of his average final compensation, not in excess of \$4,200 multiplied by the number of years of his creditable service that would have been rendered by him subsequent to December 31, 1955 and for which he would have received compensation covered by social security, if his service continued to age sixty; and (3) if he has a prior service certificate in full force and effect an additional pen-

sion which shall be equal to one-seventieth of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

B. Notwithstanding the foregoing, the disability retirement allowance in the case of a fireman or a policeman shall be his annuity plus a pension of ninety per cent of the pension computed on the basis of his average final compensation which would be allowed had he continued in service to attain his minimum age for service retirement, except that if the member had, at any time subsequent to December 31, 1955, service as a class A member such pension payable subsequent to the time when the member becomes eligible for a social security benefit shall be reduced by ninety per cent of one two-hundred-eightieth of the part of his average final compensation not in excess of \$4,200 multiplied by the number of years of his creditable service that would have been rendered by him subsequent to December 31, 1955, and for which he would have received compensation covered by social security, if his service continued to his minimum age for service retirement."

SECTION 6. Section 6-46 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 6-46. Service-connected total disability benefit. Upon application of a member, or of the head of his department, any member who has been permanently incapacitated as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, through no wilful negligence on his part, may be retired by the board for service-connected total disability provided that:

(1) In the case of an accident occurring after the effective date of this amendatory Act, the employer shall file with the board a copy of the employer's report of the accident submitted to the bureau of workmen's compensation;

(2) An application for retirement is filed with the board within 2 years of the date of the accident, or the effective date of this amendatory Act, or the date upon which workmen's compensation benefits cease, whichever is latest;

(3) Certification is made by the head of the agency in which the member is employed, stating the time, place and conditions of such service performed by such member resulting in such disability and that the disability was not the result of wilful negligence on the part of such member;

(4) The medical board certifies that such member is incapacitated for gainful employment and that such incapacity is likely to be permanent.

The board may waive strict compliance with the time limits within which a report of the accident and an application for service-connected disability retirement must be filed with the board if it is satisfied that the failure to file within the time limited by law was due to ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or because the applicant was undergoing treatment for the disability or was receiving vocational rehabilitation services occasioned by the disability.

The board shall have the power to determine whether or not the disability is the result of an accident occurring while in the actual per-

formance of duty at some definite time and place and that the disability was not the result of wilful negligence on the part of the member; provided, however, that the board may accept as conclusive: (a) the certification made by the head of the agency in which the member is employed; or (b) a finding to this effect by the medical board."

SECTION 7. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to read as follows:

"Sec. 6-46.1. Service-connected occupational disability benefit. Upon application of a member, or of the head of his department, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, through no wilful negligence on his part, may be retired by the board for service-connected occupational disability provided that:

(1) In the case of accident occurring after the effective date of this amendatory Act, the employer shall file with the board a copy of the employer's report of the accident submitted to the bureau of workmen's compensation;

(2) An application for retirement is filed with the board within two years of the date of the accident, or the effective date of this amendatory Act, or the date upon which workmen's compensation benefits cease, whichever is latest;

(3) Certification is made by the head of the agency in which the member is employed, stating the time, place and conditions of such service performed by such member resulting in such disability and that the disability was not the result of wilful negligence on the part of such member; and

(4) The medical board certifies that such member is incapacitated for the further performance of duty, that such incapacity is likely to be permanent.

The board may waive strict compliance with the time limits within which a report of the accident and an application for service-connected disability retirement must be filed with the board if it is satisfied that the failure to file within the time limited by law was due to ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or because the applicant was undergoing treatment for the disability or was receiving vocational rehabilitation services occasioned by the disability.

The board shall have the power to determine whether or not the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of wilful negligence on the part of the member; provided, however, that the board may accept as conclusive: (a) the certification made by the head of the agency in which the member is employed; or (b) a finding to this effect by the medical board."

SECTION 8. Section 6-47 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-47. Allowance on retirement for service-connected total disability. Upon retirement for service-connected total disability, a member shall receive a retirement allowance which shall consist of: (a) an

annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension, in addition to the annuity, of sixty-six and two-thirds per cent of his average final compensation, except that if a member was, at any time, a class A member, such pension payable subsequent to the time when the member becomes eligible for a social security benefit, shall be reduced by sixteen and two-thirds per cent of the part of his average final compensation not in excess of \$4,200 per annum."

SECTION 9. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to read as follows:

"Sec. 6-47.1. Allowance on retirement for service-connected occupational disability. Upon retirement for service-connected occupational disability, a member shall receive for a period of three years from the date of retirement an allowance computed in the manner prescribed for service-connected total disability. In addition, within this three-year period, he shall be reimbursed in full for all expenses for all services, drugs and appliances approved by the medical board as being necessary to the treatment and care of the disability, which expenses are not met by the Hawaii public employees' health fund. Within said three-year period, the retirement system shall also pay the cost of any physical and vocational rehabilitation services approved by the medical board. After the completion of three years, the annuity being paid shall be continued and the pension shall be thirty-three and two-thirds per cent of his average final compensation; provided, however, if the medical board shall, within said three-year period of time, find and certify that the disability pensioner is totally incapacitated for gainful employment, the board of trustees shall award a service-connected total disability benefit in which case benefits shall be paid under section 6-47.

Any other provision of this chapter notwithstanding, a pensioner, receiving service-connected occupational disability benefits, shall continue to receive such benefits irrespective of his later employment or if he later becomes a member of the retirement system. If such a pensioner again becomes a public employee, his membership status in the retirement system shall be determined as though he were entering public employment for the first time and all benefits related to such new membership shall be accrued and paid without reference to the service-connected occupational disability benefits being paid."

SECTION 10. Section 6-49.5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-49.5. Post retirement allowances. There shall be a post retirement allowance payable to each person receiving any pension, annuity or retirement allowance under the provisions of this chapter, on June 30, 1961, and to each person who first becomes entitled to receive any such pension, annuity or retirement allowance on or after July 1, 1961, as follows:

On the first day of July in each year following June 30, 1961, or the calendar year in which any monthly pension, annuity or retirement allowance was first paid, whichever last occurs, there shall be added to such monthly pension, annuity or retirement allowance and paid to the beneficiary thereof monthly thereafter an amount equivalent to one

one-half per cent of the amount of such monthly pension, annuity or retirement allowance as originally computed, approved and paid.

From and after July 1, 1963, the monthly benefits payable under this section shall be computed and paid on the basis of the number of years that have elapsed since the person entitled thereto first became the recipient of the pension, annuity or retirement allowance from which the benefit is derived."

SECTION 11. Section 6-50 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-50. Selection of retirement allowances. Maximum allowance.

Any member may elect to receive his benefit in a retirement allowance payable throughout his life provided that in the event of his death there shall be paid to his designated beneficiary, otherwise to his estate, the difference between the value of his accumulated contributions at the time of retirement and the retirement allowance payments which he has received.

In lieu of this maximum selection, he may elect to receive the actuarial equivalent of his retirement allowance in a lesser allowance payable throughout life with the provision that:

Option 1. If he dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he nominates by written designation duly acknowledged and filed with the board. The person designated to receive the balance remaining in the retirement allowance may elect to receive this balance in one of the following ways: (a) lump sum; or (b) a life annuity payable in installments not oftener than once a month unless the payment amounts to less than \$10 a month in which case full settlement shall be made in a lump sum; or (c) cash payment in part, and a reduced annuity as described under (b) above.

Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and be paid to such person as he nominates by written designation duly acknowledged and filed with the board at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and be paid to such person as he nominates by written designation duly acknowledged and filed with the board at time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he nominates, provided such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board.

Option 5. He shall receive a lump sum payment which shall be equivalent to his accumulated contributions.

Any other provision of this section notwithstanding, in the event of the death of a member within one year after the date of retirement, there shall be paid as a death benefit, and in lieu of any payments under an option elected pursuant to this section, such benefits as would be paid if such member had died immediately prior to his retirement, provided that there shall be subtracted from the value of such death benefit

such retirement allowance payments as the member shall have received prior to his death, and provided further that if the member received the lump sum payment of his accumulated contributions under option 5, such contributions shall not be included in the determination of the value of such death benefit.

Any selection of retirement allowance pursuant to the provisions of this section shall be irrevocable."

SECTION 12. Section 6-51 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 6-51. Ordinary death benefit. Upon the receipt of proper proofs of the death of a member in service, there shall be paid to his estate or to such person as he has nominated by written designation duly executed and filed with the board: (a) his accumulated contributions and if no pension be payable under the provisions of section 6-52, in addition thereto, (b) an amount equal to fifty per cent of the compensation earnable by him during the year immediately preceding his death if he had at least one year, but not more than ten full years of creditable service, which amount shall increase by five per cent of such compensation for each full year of service in excess of ten years, to a maximum of one hundred per cent of such compensation.

If such a member was eligible for service retirement at the time of his death in service, and such death occurred on or after January 1, 1963, his surviving spouse, if there be one, may elect to receive in lieu of any other payments provided in this section, the allowance which would have been payable if the member had retired and had elected to receive his retirement allowance under option 3 of section 6-50."

SECTION 13. Section 6-53 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-53. Rights of members separated from service. (a) Any member who ceases to be an employeé, except by death or retirement, upon demand made in writing within five years from the time he ceases to be an employee, shall be paid all his accumulated contributions. (b) Any member having less than five years of creditable service who ceases to be a member by reason of his absence from service for more than five years shall thereupon be paid all his accumulated contributions. (c) Any member whose membership continues notwithstanding his separation from service shall be eligible for the service retirement benefit only, which shall be payable only in accordance with the provisions relating hereto. (d) In case of the death of any member after termination of service, his accumulated contributions shall be payable to his estate or to such person as he has nominated by written designation duly executed and filed with the board.

After July 1, 1961, there shall be included in any payments made pursuant to this section the sums contributed by the member to the post retirement fund."

SECTION 14. Section 6-72 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-72. Funds of the system. The funds created by this part are the annuity savings fund, the pension accumulation fund, the post retirement fund, the expense fund and the minimum pension fund."

SECTION 15. Section 6-78 of the Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 6-78. Interest. The board annually shall allow regular interest on the mean amount for the preceding year in the annuity savings fund and the post retirement fund. The amounts so allowed shall be credited annually thereto by the board from interest and other earnings on the moneys of the system. Any additional amount required to meet such interest and regular interest on the mean amount for the preceding year in the pension accumulation fund shall be paid by the State and counties."

SECTION 16. Section 6-83 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-83. Deducting employee contributions from salary. The board shall certify to the head of each department of the State and to the auditor of each county, and each such department head or auditor shall cause to be deducted from the salary of each member on each and every payroll under his jurisdiction for each and every payroll period, the proportion of earnable compensation of each member so computed under section 6-82; provided, that any class A member in service on or before June 30, 1963 may elect at the time of becoming a class A member to have one-half or three-quarters of such proportion applied to his annual compensation not in excess of \$4,200. In determining the amount earnable by a member in a payroll period, the board may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per cent of the annual compensation upon the basis of which such deduction is to be made.

The deduction provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this part. The head of each such department shall certify to the board on each and every payroll the amounts to be deducted, and each of such amounts shall be so deducted; and the auditor of each county shall transmit monthly or at such other times as may be agreed upon by the board, the total amount of deductions made by him from the salaries of employees of such county and a record of the amount deducted from each member's compensation. All amounts so deducted shall be paid into the annuity savings fund and shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation each deduction was made."

SECTION 17. Section 6-84.5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-84.5. Refund of additional contributions. All deposits made by any member to purchase an additional annuity in the system shall be refunded to such member upon application or left with the system to provide an additional annuity as provided for in section 6-42."

SECTION 18. Section 6-85 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 6-85. Payments from the annuity savings fund. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in the event of his death, shall be paid from the annuity savings fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund."

SECTION 19. Section 6-87 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 6-87. Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all contributions made by the State and any county and all income from investments and from which shall be paid all benefits other than those benefits which are specifically payable from other funds."

SECTION 20. Sections 86, 94 and 95 of chapter 6 of the Revised Laws of Hawaii 1955, and Act 20 of the Session Laws of Hawaii 1962, are hereby repealed.

SECTION 21. This Act shall take effect as of July 1, 1963.

(Approved June 3, 1963.) **S.B. 395.**
