

ACT 62

A Bill for an Act Relating to the Employees' Retirement System of the State.

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

In order to streamline the administration of the Employees' Retirement System of the State; and, in order to improve the benefits which accrue to the members and their beneficiaries; and, in order to make the language of the retirement laws more meaningful and understandable, certain amendments are deemed to be of urgent importance to the people of this community. In order to carry out the intent and purpose of the aforesaid, it is urgent that corrective legislation be enacted.

SECTION 2. Section 6-36.8 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-36.8. Prior service credit while per diem employee. Notwithstanding any other provision of the law to the contrary, employees in per diem positions, employees who formerly filled per diem positions, and former employees who filled per diem positions on or after January 1, 1928, shall be allowed full prior service credit in the employees' retirement system from the date they entered government employment as per diem employees until the date they attain or attained monthly status."

SECTION 3. Section 6-40 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Sec. 6-40. Creditable service at retirement. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service and his prior service, if any, as provided in this part.”

SECTION 4. 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; provided a member of the legislature may continue or be restored to active membership in the system after the age of seventy years during the period such member is serving in his elective capacity.

(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.

(d) Notwithstanding any other provision of this section, a member must have five years of creditable service to be eligible for service retirement.”

SECTION 5. 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 between December 31, 1955 and January 1, 1965 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 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 between December 31, 1955 and January 1, 1965 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 percent 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 and 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 between December 31, 1955 and January 1, 1965 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 had 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 between December 31, 1955 and January 1, 1965 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 6. 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. 6-42.5. Retirement with refund of contributions. Any member who, on or after July 1, 1964, is retired for disability or is retired for service having ten years of creditable service and having attained the age of fifty-five may, at the time of his retirement, elect to receive a lump-sum payment of his accumulated contributions. His retirement allowance shall thereupon be reduced by the actuarial equivalent of such accumulated contributions."

SECTION 7. 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. Upon retirement for ordinary disability a member shall receive a service retirement allowance if he has attained the age of sixty years, otherwise he shall receive a retirement allowance of twenty-five per cent of his average final compensation plus one per cent of his average final compensation for each full year of creditable service over twenty, 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 60 as provided in section 6-42D, and except that if a member 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 between December 31, 1955 and January 1, 1965 for which he received compensation covered by social security."

SECTION 8. 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 died 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.

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, 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 9. Section 6.71 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6.71. Actuarial investigations, valuations. At least once in each five-year period, commencing with the year 1929, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the system and shall make a valuation of the assets and liabilities of the fund of the system

and, taking into account the result of such investigation and valuation, the board shall: (a) adopt for the system such mortality, service and other tables as shall be deemed necessary; and (b) certify the rates of contribution payable by each county and the State, respectively, on account of new entrants at various ages who are employees of such county or the State.

On the basis of such tables as the board shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system."

SECTION 10. Section 6-82 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-82. Employee contributions. On and after July 1, 1964, each member other than a fireman or policeman shall contribute five per cent of his compensation, and a fireman or policeman shall contribute seven per cent of his compensation.

In addition to the foregoing, all members shall contribute $\frac{1}{2}$ of 1 per cent of compensation to the post retirement fund.

SECTION 11. 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 head of each department of the State and the auditor of each county 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 percentage of compensation of each member as provided under section 6-82. The total amount of deductions made from the salaries of employees and a record of the amount deducted from each member's compensation shall be transmitted monthly or at such other times as may be agreed upon by the board. 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 12. Section 6-89 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 6-89. Determination of employer normal and accrued liability contributions.

A. On a basis of regular interest and of such mortality and other tables as are adopted by the Board, the actuary engaged by the Board shall determine the normal cost for the year beginning July 1, 1964, the unfunded accrued liability as of that date, and the accrued liability contribution for the year:

1. The normal cost for the year beginning July 1, 1964, shall be the amount determined by applying the normal contribution rate for the year to the aggregate annual amount of compensation as of March 31, 1964. The normal contribution rate for the year beginning July 1, 1964, shall be the constant percentage of the compensation of the average new entrant, which, if contributed on the basis of his compensation throughout his prospective period of service and added to his prospective contribution, will be sufficient to provide for the payment of any benefits payable on his account.

2. The unfunded accrued liability as of July 1, 1964, shall be determined by subtracting from the present value of future benefits payable

on account of present members and beneficiaries the sum of the present value of future normal costs payable with respect to present members, the present value of future contributions payable by present members, and the applicable assets.

3. The accrued liability contribution for the year beginning July 1, 1964, shall be the level annual payment required to liquidate the unfunded accrued liability over a period of 50 years beginning on that date.

B. The actuary shall, through successive valuations, recalculate the normal cost for each year after June 30, 1965, the unfunded accrued liability as of the beginning of such year, and the accrued liability contribution for the year:

1. The normal cost for each such year shall be the amount determined by applying the normal contribution rate for the year to the aggregate annual amount of compensation as of March 31, of the second preceding year. The normal contribution rate for any year after June 30, 1965, shall be determined by subtracting from the present value of future benefits payable on account of members and beneficiaries as of the beginning of the year the sum of the present value of future contributions payable by such members, the unfunded accrued liability, and the applicable assets, and spreading the remainder over the prospective service of such members as a constant percentage of their future earnable compensation.

2. The unfunded accrued liability as of the beginning of any such year shall be determined by adding to the previous unfunded accrued liability interest for one year and subtracting from the total the sum of any contribution made in the previous year in excess of the normal cost for that year plus interest to the end of the year. The unfunded accrued liability as of the beginning of a year may, at the discretion of the Board, be increased by any additional liability with respect to service rendered in previous years that may have been created since the determination of the unfunded accrued liability as of July 1, 1964.

3. The accrued liability contribution for such year shall be the level annual payment required to liquidate the unfunded accrued liability as of the beginning of the year over the remainder of the period of 50 years which began July 1, 1964.

C. Notwithstanding any other provisions of this chapter to the contrary, the accrued liability on account of Act 175, S. L. 1961 may be liquidated, with the approval of the Board, by crediting thereto the unobligated balance of the reserve for future interest deficits accumulated through appropriations heretofore made by the State and by future earnings on system investments, exclusive of capital gains, in excess of the regular rate until such time as such accrued liability with regular interest has been fully paid.

SECTION 13. Section 6-91 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Sec. 6-91. Amount of annual contributions by the State and counties. The contribution payable in each year to the pension accumulation fund by the State and by each county, respectively, shall be determined by allocating the sum of the normal cost and the accrued liability contribution in the same proportion as the aggregate annual amount of

compensation of State and county members as of March 31 of the year preceding the appropriation of said contribution.”

SECTION 14. “Sections 6-84, 6-88, 6-90, 6-92 and 6-93 of the Revised Laws of Hawaii 1955, as amended, are fully repealed.”

SECTION 15. This Act shall take effect as of July 1, 1964.

(Approved May 2, 1964.) **H.B. 26.**
