

ACT 222

A Bill for an Act Relating to the Employees' Retirement System of the State of Hawaii and Making an Appropriation Therefor.

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

SECTION 1. Amend the 5th paragraph of section 6-20 of the Revised Laws of Hawaii 1955, as amended, to read:

"Average final compensation": the average annual compensation, pay or salary earnable by a member (a) during the five highest years of creditable service at the option of the employee, or (b) if he has had less than five years of service, then during his actual years of service. In computing the compensation of a member as a justice of the supreme court or a judge of a circuit court of the Territory the compensation payable by the United States, as well as by the Territory shall be included."

SECTION 2. Section 6-20, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By deleting the paragraph starting with the word "Firemen".

(b) By deleting the paragraph starting with the word "Police-man".

(c) By deleting the paragraph starting with the word, "Service", and substituting therefor the following:

"Service": service as an employee paid by the state or county, and also service during the period of a leave of absence or exchange if the individual is paid by the state or county during the period of the leave of absence or exchange or if the individual is not paid by the state or county during the period of the leave of absence but the individual is engaged in the performance of a governmental function or on an approved leave of absence for professional improvement with or without pay and the individual makes the same contribution to the system as he would have made if he had not been on such leave of absence. Cafeteria managers and cafeteria workers shall be considered as paid by the State, regardless of the source of funds from which they are paid."

SECTION 3. Section 6-26 of the Revised Laws of Hawaii 1955, as amended, is hereby repealed.

SECTION 4. Section 6-31, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) Delete the word, "and", at the end of (5) thereunder and insert a semicolon therefor;

(b) Delete the period at the end of (6) thereunder and insert a comma and the word, "and", therefor; and

(c) Add a new subparagraph numbered (7) to read as follows:

"(7) service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay."

SECTION 5. Section 6-42 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

"Sec. 6-42. Allowance on service retirement. Upon retirement for service, a member shall receive:

A. 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

B. In addition, a member shall receive a retirement allowance as follows:

1. If the member has attained age fifty-five, a retirement allowance equal to one-fiftieth of the average final compensation of the member multiplied by the total number of years of his creditable service.

2. If the member has not attained age fifty-five, a retirement allowance computed as though he had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary.

3. If the member had attained age sixty prior to July 1, 1963, he may elect to receive:

(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.

C. The service retirement allowance of a member who has had ten years of service credit, including service as a judge or an elective officer, shall be computed on the following basis: (a) for each year of creditable service as a judge or an elective officer, 3.5 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 such a member has not attained age 55 at the time he terminates service, he may elect to receive the benefit payable under (a) of this paragraph immediately, as though he had attained age 55. The allowance shall in no case exceed seventy-five per cent of the average final compensation, provided that the allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service shall in no case exceed seventy-five per cent of the average 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."

SECTION 6. Section 6-42.5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

"Sec. 6-42.5. Retirement with refund of contributions. Any member who is retired for disability or is retired for service having ten years of creditable service 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:

“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 fifty-five 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 15, except that for each year of creditable service as a judge or an elective officer, he shall receive a retirement allowance computed as provided in section 6-42 C.”

SECTION 8. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto the following section to be numbered appropriately and to read:

“Sec. . Purchasing credits by cafeteria managers and workers. Any other provision herein to the contrary notwithstanding, any public officer or employee classified as a cafeteria manager or worker may purchase 12 months’ prior service credit per year during the time such public officer or employee was working on a 9-month schedule during a calendar year.”

SECTION 9. The next to last paragraph of section 6-50, Revised Laws of Hawaii 1955, as amended, is hereby amended to read:

“Any election of a mode of benefit payment as set forth in this section shall become effective on the thirtieth day following the date of retirement, provided that in the event of death of a member within one year after the date of retirement, there shall be paid at the choice of the person to whom payment would be made as provided above, 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.”

SECTION 10. Section 6-53 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“Sec. 6-53. Rights of members separated from service. (a) Any member who ceases to be an employee shall, upon completion of such forms as are prescribed by the board, be paid all his accumulated contributions and his membership shall thereupon terminate, provided that interest shall not be credited to an individual’s account nor shall his membership continue after the fourth full calendar year following the calendar year in which his employment terminates. (b) Subsection (a) of this section notwithstanding, any member having five or more

years of credited service who ceases to be an employee, may continue his membership by completing within four calendar years following the calendar year in which his employment terminates such forms as are prescribed by the board. (c) Any member whose membership continues notwithstanding his separation from service shall be eligible for the service retirement benefit in effect at the time of his separation from service only, which shall be payable only in accordance with the provisions relating thereto. (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 of accumulated contributions made pursuant to this section the sums contributed by the member to the post retirement fund."

SECTION 11. Section 6-75, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By deleting subsection (e) and substituting therefor a new subsection (e) to read as follows:

"(e) **Corporate Obligations.** Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following: (i) fixed interest-bearing obligations, if the net earnings of the issuing, assuming or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of the investment have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period and if during the last year of such period such net earnings have been not less than one and one-half times its fixed charges for such year; (ii) fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable under such leases, of real or personal property (including, without limitation, charters of vessels) to one or more corporations created or existing under the laws of the United States or of any state or district thereof, provided that (1) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the indebtedness represented by the obligation within the unexpired term of the lease, exclusive of the term which may be provided by an enforceable option of renewal, and (2) the net earnings of such lessee shall meet the requirements described in clause (i) above; (iii) fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies or other property, or for the furnishing of transportation or services) with one or more corporations created or existing under the laws of the United States or of any state or district thereof, provided that (1) the rights securing such obligation shall include the right to receive payments sufficient to repay the principal of and interest on the indebtedness represented by such obligation within the unexpired term of such contract, and (2) the net earnings of each purchasing or acquiring corporation shall meet the requirements described in clause (i) above. As used in this subsection, the terms 'obligation,' 'net earnings available

for fixed charges' and 'fixed charges' shall have the meanings and application ascribed thereto in sections 181-276 and 181-277 of the Revised Laws of Hawaii 1955."

(b) By deleting the last sentences of subsections (j) and (l) and adding a new sentence to subsection (l) to read as follows:

"The total combined investment in the stocks authorized by this subsection and by subsection (j) shall at no time exceed forty per cent of the total book value of all investments of the system."

(c) By adding thereto three new subsections to be designated subsections (p), (q) and (r) and to read as follows:

"(p) **World Bank and Inter-American Development Bank Obligations.** Obligations issued or guaranteed by the International Bank for Reconstruction and Development or by the Inter-American Development Bank.

"(q) **Canadian Government Obligations.** Obligations of the Dominion of Canada or of any province thereof, or of any municipality or political subdivision thereof, or those for which the full faith and credit of said dominion or such province or political subdivision are pledged to provide for the payment of principal and interest; provided, that the payment of principal and interest of such obligations are payable in United States funds.

"(r) **Other Securities.** Securities and stock in which in the informed opinion of the trustees it is prudent to invest funds of the system, whether or not such securities or stock are expressly authorized by or qualify under the foregoing subsections, and notwithstanding any limitations of any of the foregoing subsections (including subsections (j) and (l)); provided, that the total investment under this subsection shall at no time exceed ten per cent of the total book value of all investments of the system."

SECTION 12. Section 6-78 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

"**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 regular interest on the mean amount for the preceding year in the pension accumulation fund shall be paid by the State and counties and any excess of earnings over such amount required shall be deductible from the amounts to be contributed by the State and counties."

SECTION 13. The first paragraph of Section 6-82 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

"**Sec. 6-82. Employee Contributions.** On and after July 1, 1965 each member shall contribute 6% of his compensation."

SECTION 14. Section 6-82.01 of the Revised Laws of Hawaii 1955, as amended, is hereby repealed.

SECTION 15. Section 6-89 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By amending the first sentence of subsection B, subparagraph 1, to read:

"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 preceding year."

(b) By amending subsection C to read:

"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 taken prior to July 1, 1964 in excess of the regular rate until such time as such accrued liability with regular interest has been fully paid. After June 30, 1964 such earnings on investments shall include capital gains, whether realized or unrealized, in the value of the retirement system assets as taken from time to time thereafter by the board."

SECTION 16. The last paragraph of Section 6-101 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read:

"The amount payable by each department or agency of the State covered by this section shall be determined at least quarterly by the Department of Budget and Finance on the basis of the payroll of the employees of such department or agency who are members of the system in the same manner as is specified with respect to the allocation of employer contributions in Section 6-91, Revised Laws of Hawaii 1955, as amended. The comptroller of the State or any department or agency having control of its own funds shall, upon information furnished by the Department of Budget and Finance, issue a warrant for the proper amount to the system, charging the same to the appropriate fund, and the system shall place all such sums to the credit of the State as part payment of the State's contributions to the various funds of the system."

SECTION 17. Section 6-103, Revised Laws of Hawaii 1955, as amended is hereby amended to read:

"**Sec. 6-103. Guaranty.** Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves and pension reserves as provided for and the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this part and all expenses in connection with the administration and operation of the system are made obligations of the State and of the respective counties. All income, interest and dividends derived from deposits and investments authorized by this part shall be used for the payment of such obligations. After June 30, 1964, such income shall include capital gains or losses, whether realized or unrealized, in the value of the retirement system assets as taken from time to

time thereafter by the board. Any amounts derived therefrom which when combined with appropriation requirements as certified by the board under the provisions of this part would exceed the amount required to provide for such obligations, may be used to reduce the appropriations otherwise required. It is hereby declared that any and all sums contributed or paid from whatever source to the system for the funds created by this part, and all funds of the system including any and all interest and earnings of the same, are and shall be held in trust by the board for the exclusive use and benefit of the system and for the members of the system and shall not be subject to appropriation for any other purpose whatsoever."

SECTION 18. Section 6-250 of the Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By deleting "Any law to the contrary notwithstanding," and substituting therefor "Except as herein provided,".

(b) By amending paragraph (a) by deleting the sum "\$52.50" and substituting therefor, the sum "\$56.44."

(c) By amending paragraph (b) by deleting the sum "\$21.00" and substituting therefor, the sum "\$22.58."

(d) By amending paragraph (c) by deleting the sum "\$21.00" wherever it appears and substituting therefor the sum "\$22.58" and by deleting the sum "\$136.50" wherever it appears and substituting therefor the sum "\$146.74."

(e) By adding a paragraph (d) to read as follows:

"(d) In the case of any retirement allowance for service commencing on or after July 1, 1965 pursuant to paragraphs B or C of section 6-42 of the Revised Laws of Hawaii 1955, as amended, the only bonus payable shall be in the amount by which the benefit payable under said paragraphs is less than the bonus as set forth above, provided, however, that in no case shall a person who retires on or after July 1, 1965 receive less under the service and ordinary disability retirement system benefits, plus the bonus payable under this section than he would have received if subsection (d) had not been enacted."

(f) By adding a paragraph (e) to read as follows:

"(e) Any provisions of this section to the contrary notwithstanding, effective January 1, 1966 there shall be paid to every person who on June 30, 1965 was receiving a retirement allowance from the employees' retirement system of the State or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus of 7½% of such retirement allowance or pension."

SECTION 19. Subsections (a) (b) (c) and (d) of Section 18 of this Act shall take effect on January 1, 1966.

SECTION 20. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$292,000, or so much as may be necessary, to pay the bonuses provided for in this Act. The appropriation shall be allotted by the director of budget and finance with the approval of the governor to

the several boards, commissions and officers required to make bonus payments, except where there is a specific provision for payment of the bonus from other funds, and in the case of the counties, the money so allotted shall be paid into each respective county treasury and held in special funds solely for the purpose of paying bonuses.

SECTION 21. This Act shall take effect on July 1, 1965.
(Approved June 30, 1965.) **H.B. 595.**