

A Bill for an Act Relating to Mandatory Retirement.

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

SECTION 1. Section 78-3, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 88-73, Hawaii Revised Statutes, is amended to read:

“§88-73 Service retirement. Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

- (1) Any member who has at least five years credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, 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. In the event of the death of a member after the date of the filing of the member’s written application to retire, the designated beneficiary, otherwise the personal representative of the

member's estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member's retirement.

- [(2) Any member who has at least five years of credited service and who attains the age of seventy years shall be retired on the first day of the calendar month next succeeding that in which he attains 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.
- (3)] (2) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although he continues to fill his elective position.
- [(4)] (3) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which he elected to retire, as provided by section 88-61(c), after attaining an allowance of seventy-five per cent of his average final compensation shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but he shall not receive a retirement allowance until he leaves active service; however, upon his leaving active service he shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90 which post retirement allowances shall be computed from the date of the election as though he had left active service on that day.”

SECTION 3. Section 297-15, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 378-3, Hawaii Revised Statutes, is amended to read:

“§378-3 **Exceptions.** Nothing in this part shall be deemed to:

- (1) Repeal or affect any law or ordinance or government rule or regulation having the force and effect of law;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise, and which have a substantial relationship to the functions and responsibilities of the prospective or continued employment;
- (3) Prohibit or prevent an employer, employment agency, or a labor organization from refusing to hire or refer or from discharging any

individual for reasons relating to the ability of the individual to perform the work in question;

- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan[;] based on age, which is not intended to evade the purpose of this chapter; provided that this exception shall not be construed to permit any employee plan to set a maximum age requirement for hiring or a mandatory retirement age; provided further that any existing bona fide retirement, pension, employee benefit, or insurance plan or existing bargaining agreement shall be exempt from the provisions of this paragraph for two years after the effective date of this Act or until the termination of the plan or agreement, whichever occurs first;
- (5) Prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to individuals of the same religion or denomination or from making such selection as is calculated by the organization to promote the religious principles for which it is established or maintained;
- (6) Conflict with or affect the application of security regulations in employment established by the United States or the State;
- (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a handicapped person.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

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

(Approved April 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.