

ACT 108

H.B. NO. 3151

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

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

SECTION 1. The purpose of this Act is to preserve ordinary death benefits for public school employee members of the employees' retirement system of the State of Hawaii who may not receive any salary during the interim period when transferring from a year round school schedule to a traditional school schedule.

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Year round school employee”: any teacher, school administrator, school health aide, educational assistant, school security attendant, or other salaried ten-month department of education employee working in a public school operating under a single-track restructured instructional schedule.”

SECTION 3. Section 88-84, Hawaii Revised Statutes, is amended to read as follows:

“§88-84 Ordinary death benefit. (a) Upon receipt of proper proof of a member's death in service, there shall be paid to the member's designated beneficiary an ordinary death benefit consisting of:

- (1) The member's accumulated contributions and, if no pension is payable under section 88-85, in addition thereto[,;
- (2) An an amount equal to fifty per cent of the compensation earned by the member during the year immediately preceding the member's death if the member had at least one year but not more than ten full years of credited service, which amount shall increase by five per cent for each full year of service in excess of ten years, to a maximum of one hundred per cent of the compensation; provided that if the member had at least one year of credited service, the amount, together with the member's accumulated contributions shall not be less than one hundred per cent of the compensation[,]; or
- [(3)] (2) If the member had ten or more years of credited service but was ineligible for service retirement at the time of death in service, and the death occurred after June 30, 1988, the member's designated beneficiary may elect to receive in lieu of any other payment provided in this section the allowance that would have been payable to the

beneficiary under option 3 of section 88-83 and computed on the basis of section 88-76[.]; or

- [(4)] (3) If the member was eligible for service retirement at the time of death in service, the member's designated beneficiary may elect to receive in lieu of any other payments provided in this section, the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option 2 of section 88-83.

(b) If the member's designation of beneficiary is void as specified in section 88-93, or if the member did not designate a beneficiary, there shall be payable:

- (1) To the surviving spouse, an allowance payable under option 3 of section 88-83 if the member had at least ten years of credited service but was ineligible for service retirement at the time of the death in service, which allowance shall be computed on the basis of section 88-76; or if the member was eligible for service retirement at the time of death in service, the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option 2 of section 88-83; or a benefit as specified under subsection (a)(1) [and (2); or];
- (2) To the deceased member's dependent child, or children under age eighteen if there is no surviving spouse, an equally divided benefit as specified under subsection (a)(1) [and (2)]; or
- (3) To the deceased member's estate, if there is no surviving spouse or dependent child or children, a benefit as specified under subsection (a)(1) [and (2)].

(c) For the purposes of this section, a year round school employee shall be considered in service during the July and August preceding a transfer to a traditional school schedule if the employee was in service for the entire prior school year and has a contract for the upcoming traditional school year."

SECTION 4. Section 88-286, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In the case of ordinary death, the death benefit shall be as follows:

- (1) For the surviving spouse, an allowance equal to one-half of the member's accrued normal retirement allowance unreduced for age, payable to the surviving spouse until remarriage; or if the member was eligible for retirement at the time of the member's death in service, and death occurred after June 30, 1990, the surviving spouse may elect the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option B and computed on the basis of section 88-283;
- (2) If there is a surviving spouse, each dependent child under age eighteen shall receive an allowance equal to ten per cent of the member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed twenty per cent of the member's accrued normal retirement allowance unreduced for age; and
- (3) If there is no surviving spouse, each dependent child under age eighteen shall receive an allowance equal to twenty per cent of the

member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed forty per cent of the member's accrued normal retirement allowance unreduced for age.

For the purpose of determining eligibility for ordinary death benefit, a year round school employee shall be considered in service during the July and August preceding a transfer to a traditional school schedule if the employee was in service for the entire prior school year and has a contract for the upcoming traditional school year."

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

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

(Approved June 8, 1994.)