

**ACT 185**

H.B. NO. 2678

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 legislature finds that under sections 88-75 and 88-284, Hawaii Revised Statutes, members of the employees' retirement system who are

granted approval for ordinary disability retirement are eligible to receive ordinary disability retirement benefits no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. However, section 6-26-2(2), Hawaii Administrative Rules, expands upon these provisions by adding that the effective date of retirement for ordinary disability retirement shall be no later than ninety days from the date of the notice informing the member of the employees' retirement system's board of trustees' approval of the application, and if the applicant fails to retire within ninety days after the mailing of that notice, the application shall be deemed canceled.

The legislature also finds that the ninety-day time limit is burdensome to employees' retirement system members who have applied for ordinary disability retirement, because the requirement imposes a deadline by which these members must cease their employment and, hence, their compensation at full pay. Furthermore, the ninety-day time limit prevents employees' retirement system members who are approved for ordinary disability retirement from using their earned paid sick leave and vacation leave of absence beyond ninety days.

The purpose of this Act is to nullify the effective date of retirement for ordinary disability retirement as contained in section 6-26-2(2), Hawaii Administrative Rules, and establish that, if an applicant who files an application for ordinary disability retirement continues to work at the applicant's regular job, or remains on payroll by taking paid sick or vacation leave of absence, the effective date of retirement shall be the first day of the month following the month the applicant terminates employment or goes off the payroll.

SECTION 2. Section 88-75, Hawaii Revised Statutes, is amended to read as follows:

**“§88-75 Ordinary disability retirement.** Upon application of a member in service or on leave without pay, or the person appointed by the family court as guardian of an incapacitated member, any member who has ten or more years of credited service shall be retired by the board of trustees on an ordinary disability retirement allowance if the medical board, after a medical examination of the member, certifies that:

- (1) The member is mentally or physically incapacitated for the further performance of duty at the time of application;
- (2) The incapacity is likely to be permanent; and
- (3) The member should be retired.

Upon approval by the board, the member shall be eligible to receive an ordinary disability retirement benefit no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. [Retirement] A member whose application for an ordinary disability retirement allowance is approved by the board while the member is still in service may terminate service and retire at any time following such approval; provided that retirement shall become effective on the first day of [a] the month[,] following the month the applicant terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed.”

SECTION 3. Section 88-284, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Upon approval by the board, the member shall receive an ordinary disability retirement benefit no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. [Retirement] A member whose application for an ordinary disability retirement allowance is

approved by the board while the member is still in service may terminate service and retire at any time following such approval; provided that retirement shall become effective on the first day of [a] the<sup>1</sup> month[;] following the month the applicant terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed.’

SECTION 4. This Act shall apply to any application for ordinary disability retirement filed after its effective date.

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

SECTION 6. This Act shall take effect on July 1, 2006.

(Approved June 13, 2006.)

**Note**

1. “The” should be underscored.