

ACT 2

H.B. NO. 1073

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

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

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§88- Session employees of the legislature; exempt from mandatory enrollment.** (a) Notwithstanding section 88-42 or any other section in part II, VII, or VIII, any person who is employed as a session employee by the legislature or any legislative service agency after October 31, 2006, to provide services during any session of the legislature and who is not subject to section 88-54 shall be excluded from membership in the employees' retirement system throughout the person's employment as a session employee.

(b) For the purposes of this section, “session employee” means a person who is not subject to section 88-54 and who is employed by the legislature or any legislative service agency to provide services during any session of the legislature,

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including a reasonable period immediately prior to and after that session as the legislature and legislative service agencies shall determine.”

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “employee” to read as follows:

““Employee”: any employee or officer of the State or any county, including inspectors, principals, teachers and special teachers, regularly employed in the public schools, cafeteria managers and cafeteria workers, apprentices and on-the-job trainees whether or not supported in whole or in part by any federal grants, members of the legislature and other elective officers, including the trustees of the office of Hawaiian affairs, year-round legislative employees who are employed on a full-time basis [~~during and between sessions~~], probationary and provisional employees, any employee of the educational nonprofit public corporation as provided in section 88-49.7, per diem employees and others who are made eligible by reason of their employment to membership in the system by or pursuant to any other provision of law, but excluding:

- (1) Per diem employees who elect to withdraw or not to become members as provided in section 88-42;
- (2) Members of the legislature who do not elect to be members as provided in section 88-42;
- (3) Session employees of the legislature employed after October 31, 2006, in accordance with section 88- ; and
- ~~(3)~~ (4) Persons excluded by rules of the board pursuant to section 88-43.

An individual is an employee during the period of a leave of absence if the individual is in service, as defined in this part, during the period of the leave of absence and the board shall determine who are employees within the meaning of this part.”

SECTION 3. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

“**§88-51 Membership service generally.** Membership service includes:

- (1) Service by an employee rendered since becoming a member;
- (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by the government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time the employee renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived the employee’s right to any credit under the Civil Service Retirement Act (5 U.S.C.A. 2251) based upon such service; provided further that credit for such service shall not exceed eight years;

- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
- (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of the employee's employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees;
- (8) Service, not exceeding four years, in the military service of the United States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to the employee's induction into the military and who subsequently returned to employment of the Territory or county following the employee's discharge;
- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital, Puunene Hospital, Waimea Hospital, Waimea, Kauai, Haliimaile Dispensary, and Paia Hospital and Pioneer Mill Hospital;
- (10) Service rendered prior to becoming a member as a full-time sheriff or deputy sheriff in the office of the sheriff;
- (11) The period of time when a member was absent from work because of injuries incurred within the scope of the member's employment and who has received workers' compensation benefits prior to July 1, 1967;
- (12) Service rendered as ~~an~~ a full-time, year-round employee of the legislature during any legislative session~~;~~, except for service rendered as a session employee, as defined in section 88- , and employed after October 31, 2006;
- (13) Service as a school cafeteria manager or worker if paid by the State regardless of the source of funds from which paid; provided that twelve months' service shall be credited for the time such a person was working on a nine-month schedule during a school year; and
- (14) Service rendered as a trustee of the office of Hawaiian affairs during the period of July 1, 1993, through June 30, 2002.

Membership service shall only be credited for any period for which the member makes the required contributions to the system."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval and shall apply retroactively to all session employees of the legislature and legislative service agencies employed after October 31, 2006.

(Approved March 5, 2007.)

#### Note

1. Edited pursuant to HRS §23G-16.5.