

ACT 69

S.B. NO. 2766

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 this Act is necessary to reduce and control the unfunded liability of the employees' retirement system of the State of Hawaii and to prevent future retirement contribution increases. The purpose of this Act is to clarify that members of the employees' retirement system eligible to claim service-connected disability and accidental death benefits must be beneficiaries of the trust.

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

““Accidental death”[:] means death that is the natural and proximate result of an accident occurring at some definite time and place while the member was employed in a position in which all contributions required to be made to the employees’ retirement system by the employee or the employer, or both, have been made, was in the actual performance of duty, or due to the result of some occupational hazard, and not caused by wilful negligence on the part of the member.”

SECTION 3. Section 88-79, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Under rules the board of trustees may adopt, upon application of a member, or the person appointed by the family court as guardian of an incapacitated member, any member while employed in a position in which all contributions required to be made to the employees’ retirement system by the employee or the employer, or both, have been made, who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the system for service-connected disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the system a copy of the employer’s report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the system within two years of the date of the accident, or the date upon which workers’ compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member’s disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board or other entity designated by the board of trustees certifies that the member is incapacitated for the further performance of duty at the time of application and that the member’s incapacity is likely to be permanent.”

SECTION 4. Section 88-336, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Under rules the board of trustees may adopt, upon application of a class H member, or the person appointed by the family court as guardian of an incapacitated member, any class H member, employed in a position in which all contributions required to be made to the employees’ retirement system by the employee or the employer, or both, have been made, who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the system for service-connected disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the system a copy of the employer’s report of the accident submitted to the director of labor and industrial relations;

ACT 69

- (2) An application for retirement is filed with the system within two years of the date of the accident, or the date upon which workers' compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member's disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board or other entity designated by the board of trustees certifies that the member is incapacitated for the further performance of duty at the time of application and that the member's incapacity is likely to be permanent."

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

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

(Approved June 29, 2018.)