

**SB 2767**

**SD-2**

**RELATING TO  
EMPLOYEES'  
RETIREMENT  
SYSTEM**

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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to amend and clarify  
2 provisions of chapter 88, Hawaii Revised Statutes, to maintain  
3 the status of the employees' retirement system as a tax-  
4 qualified plan under section 401(a) of the Internal Revenue  
5 Code.

6           SECTION 2. Section 88-59, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8           "(b) After the filing of the statement, the board shall  
9 verify the service claimed and determine the service credit  
10 allowable. Verified prior service shall be credited. Verified  
11 membership service shall be paid for by the member in any one of  
12 the following methods, at the member's option:

13           (1) If deductions commence or the lump sum payment is made  
14 prior to July 1, 2020:

15           (A) By deductions from the member's compensation  
16 pursuant to section 414(h)(2) of the Internal  
17 Revenue Code of 1986, as amended, under the



1 employer pick up plan under section 88-46. An  
2 irrevocable payroll authorization filed by the  
3 member for a period not to exceed sixty months  
4 shall remain in effect until the completion of  
5 the payroll payments or termination of  
6 employment, whichever is earlier. The member may  
7 elect to have:

- 8 (i) Deductions from the member's compensation of  
9 twice the contribution rate provided for in  
10 section 88-45 over a period equal to the  
11 period for which membership service credit  
12 is allowable not to exceed sixty months; or  
13 (ii) Deductions from the member's compensation of  
14 one and one-half times the contribution rate  
15 provided for in section 88-45 over a period  
16 equal to twice the period for which  
17 membership service credit is allowable not  
18 to exceed sixty months; or  
19 (B) By lump sum payment of contributions computed at  
20 the contribution rate provided for in section  
21 88-45 applied to the member's monthly rate of



1 compensation at the time of payment multiplied by  
2 the number of months for which membership service  
3 credit is allowable; provided that after July 1,  
4 1982, this method shall not be available to any  
5 new member with fewer than five years of  
6 membership service exclusive of any previous  
7 service acquired under subparagraph (A).

8 (2) If the [~~deductions commence or the lump sum~~] payment  
9 is made after June 30, 2020 [+

10 ~~(A) By deductions from the member's compensation~~  
11 ~~pursuant to section 414(h)(2) of the Internal~~  
12 ~~Revenue Code of 1986, as amended, under the~~  
13 ~~employer pick up plan under section 88-46. An~~  
14 ~~irrevocable payroll authorization filed by the~~  
15 ~~member for a period not to exceed sixty months~~  
16 ~~shall remain in effect until the completion of~~  
17 ~~the payroll payments or termination of~~  
18 ~~employment, whichever is earlier. The amount of~~  
19 ~~the deductions shall be sufficient to amortize~~  
20 ~~the actuarial cost of the membership service to~~  
21 ~~be credited, together with interest at the~~



1 ~~investment yield rate assumption in effect as of~~  
2 ~~the date the claim for service credit is made, in~~  
3 ~~level twice monthly payments over the period~~  
4 ~~specified in the irrevocable authorization.~~

5 ~~Service credited shall be proportional on the~~  
6 ~~basis of whole months. For example, if a member~~  
7 ~~elects to acquire twenty four months of service~~  
8 ~~over sixty months and terminates employment after~~  
9 ~~thirty and one half months of deductions, the~~  
10 ~~member will acquire twelve months of membership~~  
11 ~~service credit; or~~

12 ~~(B)~~ By], by lump sum payment equal to the actuarial  
13 cost of the membership service to be credited;  
14 provided that the member has at least five years  
15 of membership exclusive of any previous service  
16 acquired under paragraph (1) [~~or subparagraph~~  
17 ~~(A)~~].

18 The actuarial cost of the membership service to be credited  
19 shall be determined by the actuary for the system based on  
20 the age of the member in full years as of the date the  
21 claim for service credit is made, the investment yield rate



1        assumption in effect as of the date the claim for service  
2        credit is made, the retirement age eligibility requirements  
3        and retirement allowance provisions applicable to the  
4        member, and other actuarial assumptions adopted by the  
5        board in effect as of the date the claim for service credit  
6        is made.

7        The deductions from compensation or lump sum payment shall  
8        be paid to the system and shall be credited to the member's  
9        individual account and become part of the member's accumulated  
10       contributions."

11       SECTION 3. Section 88-324, Hawaii Revised Statutes, is  
12       amended by amending subsections (b) and (c) to read as follows:

13       "(b) Except as otherwise provided in subsection (c), (d),  
14       or (e), verified membership service shall be paid for in any one  
15       of the following methods, at the member's option:

16       (1) If deductions commence or the lump sum payment is made  
17       prior to July 1, 2020:

18       (A) By deductions from the member's compensation  
19       pursuant to section 414(h)(2) of the Internal  
20       Revenue Code of 1986, as amended, under the  
21       employer pick up plan under section 88-326. An



1           irrevocable payroll authorization filed by the  
2           member for a period not to exceed sixty months  
3           shall remain in effect until the completion of  
4           the payroll payments or termination of  
5           employment, whichever is earlier. The amount of  
6           service credit that may be acquired pursuant to  
7           this method shall not exceed the period over  
8           which the payroll payments are made. The member  
9           may elect to have:

10           (i) Deductions from the member's compensation of  
11           twice the contribution rate provided for in  
12           section 88-325 over a period equal to the  
13           period for which membership service credit  
14           is allowable not to exceed sixty months; or

15           (ii) Deductions from the member's compensation of  
16           one and one-half times the contribution rate  
17           provided for in section 88-325 over a period  
18           equal to twice the period for which  
19           membership service credit is allowable, not  
20           to exceed sixty months; or



1 (B) By lump sum payment of contributions computed at  
2 the contribution rate provided for in section  
3 88-325 applied to the member's monthly rate of  
4 compensation at the time of payment multiplied by  
5 the number of months for which membership service  
6 credit is allowable.

7 (2) If the [~~deductions commence or the lump sum~~] payment  
8 is made after June 30, 2020 [+

9 ~~(A) By deductions from the member's compensation~~  
10 ~~pursuant to section 414(h)(2) of the Internal~~  
11 ~~Revenue Code of 1986, as amended, under the~~  
12 ~~employer pick up plan under section 88-326. An~~  
13 ~~irrevocable payroll authorization filed by the~~  
14 ~~member for a period not to exceed sixty months~~  
15 ~~shall remain in effect until the completion of~~  
16 ~~the payroll payments or termination of~~  
17 ~~employment, whichever is earlier. The amount of~~  
18 ~~the deductions shall be sufficient to amortize~~  
19 ~~the actuarial cost of the membership service to~~  
20 ~~be credited, together with interest at the~~  
21 ~~investment yield rate assumption in effect as of~~





1 ~~the date the claim for service credit is made, in~~  
2 ~~level twice monthly payments over the period~~  
3 ~~specified in the irrevocable authorization.~~

4 ~~Service credited shall be proportional on the~~  
5 ~~basis of whole months. For example, if a member~~  
6 ~~elects to acquire twenty four months of service~~  
7 ~~over sixty months and terminates employment after~~  
8 ~~thirty and one half months of deductions, the~~  
9 ~~member will acquire twelve months of membership~~  
10 ~~service credit; or~~

11 ~~(B)~~ By, by lump sum payment equal to the actuarial  
12 cost of the membership service to be credited;  
13 provided that the member has at least five years  
14 of membership exclusive of any previous service  
15 acquired under paragraph (1) [~~or subparagraph~~  
16 ~~(A)~~].

17 The actuarial cost of the membership service to be credited  
18 shall be determined by the actuary for the system based on  
19 the age of the member in full years as of the date the  
20 claim for service credit is made, the investment yield rate  
21 assumption in effect as of the date the claim for service



1 credit is made, the retirement age eligibility requirements  
2 and retirement allowance provisions applicable to the  
3 member, and other actuarial assumptions adopted by the  
4 board in effect as of the date the claim for service is  
5 made.

6 The deductions from compensation or lump sum payment shall  
7 be paid to the system and shall be credited to the member's  
8 individual account and become part of the member's accumulated  
9 contributions.

10 Class H membership service credit in addition to any other  
11 service credited to the member shall be allowed for the period  
12 for which the deductions from compensation or lump sum payment  
13 have been made in accordance with this subsection; provided that  
14 payment shall commence within one year after the system notifies  
15 the member that the service claimed has been verified and that  
16 service credit is allowable; provided further that, for a member  
17 who becomes a member after June 30, 2016: membership service  
18 credit for prior service or for service rendered prior to the  
19 member's last becoming a member shall be claimed within one year  
20 after the member enters service; membership service credit for  
21 military service pursuant to section 88-132.5 shall be claimed



1 within one year after the member meets the requirements of  
2 section 88-132.5(a) or (b); and any other membership service  
3 credit acquired pursuant to this section shall be claimed within  
4 one year after the member becomes eligible to receive the  
5 service credit upon satisfaction of the requirements of this  
6 section.

7 (c) Verified membership service for which a former class A  
8 or class B member in service on June 30, 2006, was eligible as  
9 of June 30, 2006, but failed to claim by the date established by  
10 the board pursuant to section 88-322(b), shall be paid for in  
11 any one of the following methods, at the member's option:

12 (1) If deductions commence or the lump sum payment is made  
13 prior to July 1, 2020:

14 (A) By deductions from the member's compensation  
15 pursuant to section 414(h)(2) of the Internal  
16 Revenue Code of 1986, as amended, under the  
17 employer pick up plan under section 88-326. An  
18 irrevocable payroll authorization filed by the  
19 member for a period not to exceed sixty months  
20 shall remain in effect until the completion of  
21 the payroll payments or termination of



1 employment, whichever is earlier. The amount of  
2 service credit that may be acquired pursuant to  
3 this method shall not exceed the period over  
4 which the payroll payments are made. The member  
5 may elect to have:

6 (i) Deductions from the member's compensation of  
7 twice the contribution rate applicable to  
8 the member under section 88-45 as of  
9 June 30, 2006, over a period equal to the  
10 period for which membership service credit  
11 is allowable, not to exceed sixty months; or

12 (ii) Deductions from the member's compensation of  
13 one and one-half times the contribution rate  
14 applicable to the member under section 88-45  
15 as of June 30, 2006, over a period equal to  
16 twice the period for which membership  
17 service credit is allowable, not to exceed  
18 sixty months; or

19 (B) By lump sum payment of contributions computed at  
20 the contribution rate applicable to the member  
21 under section 88-45 as of June 30, 2006, applied



1 to the member's monthly rate of compensation at  
2 the time of payment, multiplied by the number of  
3 months for which membership service credit is  
4 allowable.

5 (2) If the [~~deductions commence or the lump sum~~] payment  
6 is made after June 30, 2020 [+

7 ~~(A) By deductions from the member's compensation~~  
8 ~~pursuant to section 414(h)(2) of the Internal~~  
9 ~~Revenue Code of 1986, as amended, under the~~  
10 ~~employer pick up plan under section 88-46. An~~  
11 ~~irrevocable payroll authorization filed by the~~  
12 ~~member for a period not to exceed sixty months~~  
13 ~~shall remain in effect until the completion of~~  
14 ~~the payroll payments or termination of~~  
15 ~~employment, whichever is earlier. The amount of~~  
16 ~~the deductions shall be sufficient to amortize~~  
17 ~~the actuarial cost of the membership service to~~  
18 ~~be credited, together with interest at the~~  
19 ~~investment yield rate assumption in effect as of~~  
20 ~~the date the claim for service credit is made, in~~  
21 ~~level twice monthly payments over the period~~



1 ~~specified in the irrevocable authorization.~~  
2 ~~Service credited shall be proportional on the~~  
3 ~~basis of whole months. For example, if a member~~  
4 ~~elects to acquire twenty four months over sixty~~  
5 ~~months and terminates employment after thirty and~~  
6 ~~one half months of deductions, the member will~~  
7 ~~acquire twelve months of membership service~~  
8 ~~credit, or~~

9 ~~(B)~~ By], by lump sum payment equal to the actuarial  
10 cost of the membership service to be credited;  
11 provided that the member has at least five years  
12 of membership exclusive of any previous service  
13 acquired under paragraph (1) [~~or subparagraph~~  
14 ~~(A)~~].

15 The actuarial cost of the membership service to be credited  
16 shall be determined by the actuary for the system based on  
17 the age of the member in full years as of the date the  
18 claim for service credit is made, the investment yield rate  
19 assumption in effect as of the date the claim for service  
20 credit is made, the retirement age eligibility requirements  
21 and retirement allowance provisions applicable to the



1 member, and other actuarial assumptions adopted by the  
2 board in effect as of the date the claim for service is  
3 made.

4 The deductions from compensation or lump sum payment shall be  
5 paid to the system and shall be credited to the member's  
6 individual account and become part of the member's accumulated  
7 contributions.

8 Class H membership service credit in addition to any other  
9 service credited to the member shall be allowed for the period  
10 for which the deductions from compensation or lump sum payment  
11 have been made in accordance with this subsection; provided that  
12 payment shall commence within one year after the system notifies  
13 the member that the service claimed has been verified and that  
14 service credit is allowable; and provided further that, for a  
15 member who becomes a member after June 30, 2016: membership  
16 service credit for prior service or for service rendered prior  
17 to the member's last becoming a member shall be claimed within  
18 one year after the member enters service; membership service  
19 credit for military service pursuant to section 88-132.5 shall  
20 be claimed within one year after the member meets the  
21 requirements of section 88-132.5(a); and any other membership



1 service credit acquired pursuant to this section shall be  
2 claimed within one year after the member becomes eligible to  
3 receive the service credit upon satisfaction of the requirements  
4 of this section."

5 SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.





S.B. NO. 2767  
S.D. 2

**Report Title:**

Employees' Retirement System; Acquisition of Retirement Service Credit

**Description:**

Amends and clarifies the acquisition of service provisions to maintain the tax-qualified status of the Employees' Retirement System. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



**SB 2767**

**SD-2**

**TESTIMONY**

DAVID Y. IGE  
GOVERNOR



THOMAS WILLIAMS  
EXECUTIVE DIRECTOR

KANOE MARGOL  
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII**  
**EMPLOYEES' RETIREMENT SYSTEM**

TESTIMONY BY THOMAS WILLIAMS  
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM  
STATE OF HAWAII

TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON

SENATE BILL NO. 2767, S.D. 2

**March 20, 2018,**  
**9:00 A.M.**  
**Conference Room 309**

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Chair Johanson, Vice Chair Holt and Members of the Committee,

S.B. 2767, S.D. 2, would amend Chapter 88, Hawaii Revised Statutes, by amending section 88-59(b) and 88-324(b) and (c), to assure the Employees' Retirement System ("ERS") maintains its status as a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code.

The Board of Trustees of the Employees' Retirement System supports this legislation.

The ERS is intended to be a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code. The proposal's amendments to chapter 88, Hawaii Revised Statutes, are to specify the method of purchasing additional membership service credit by pre-tax contributions so as to maintain the tax-qualified status of the system.

Act 86, Session Laws of Hawaii 2015, prospectively changed the cost to purchase membership service to be based on an actuarially neutral cost calculation. This delayed implementation to



Employees' Retirement System  
of the State of Hawaii

July 1, 2020, was to allow the ERS to obtain confirmation from the Internal Revenue Service ("IRS") that the change in the calculation of purchase cost amount would not be considered a change to the employer pick up plan previously approved by the IRS. However, the IRS no longer provides guidance in the form of private letter rulings for public plan provision approvals.

The ERS tax counsel and staff has concluded the 2015 change in purchase cost allows for greater pre-tax retirement contributions than previously approved by the IRS, this amendment is required to correct the employer pick up plan provisions for Class A and Class H members for purchases after June 30, 2020 and to maintain the plan's tax exempt status.

Thank you for this opportunity to provide testimony on S.B. 2767, S.D. 2.

**SB 2767**

**SD-2**

**LATE**

**TESTIMONY**