

JAN 21 2011

S.B. NO. 183

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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. Chapter 88, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           "§88-     Reinstatement of benefits.   An individual whose:

5           (1) Benefits under this chapter arose from that  
6           individual's spouse's or reciprocal beneficiary's  
7           membership in the employees' retirement system through  
8           employment as a police officer, firefighter, deputy  
9           sheriff, or public safety officer; and

10          (2) Pension or benefit was terminated by reason of  
11          remarriage, marriage, or entry into a new reciprocal  
12          beneficiary relationship occurring subsequent to the  
13          death of the member,

14          may have the terminated pension or benefit reinstated upon a  
15          written application to the applicable system. The level of  
16          reinstated pension or benefit payment shall be the amount  
17          received by the surviving spouse or surviving reciprocal  
18          beneficiary on the date that the payment was terminated,



1 adjusted to reflect ad hoc and scheduled increases from the date  
2 of termination to the date of reinstatement. Benefit payments  
3 accruing between the effective date of reinstatement and the  
4 date reinstated benefits payments commence shall be paid without  
5 interest."

6 SECTION 2. Section 88-21, Hawaii Revised Statutes, is  
7 amended by adding two new definitions to be appropriately  
8 inserted and to read as follows:

9 "Deputy sheriff" means an employee in the department of  
10 public safety who has been conferred police power by the  
11 director of public safety pursuant to section 353C-4 and is in a  
12 position of deputy sheriff I, II, III, IV, or V.

13 "Public safety officer" means any individual employed as a  
14 corrections officer, investigator of the department of the  
15 prosecuting attorney, investigator of the department of the  
16 attorney general, narcotics enforcement investigator, water  
17 safety officer, or public safety investigations staff  
18 investigator."

19 SECTION 3. Section 88-1, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 **"§88-1 Restrictions.** ~~[The provisions of this]~~ This  
22 section shall [be applicable] apply to every pension and to



1 every recipient or beneficiary thereof, granted or provided for  
2 by any special act of the legislature (other than benefits, or  
3 the recipients thereof, payable to beneficiaries or retirants of  
4 the employees' retirement system under parts II, VII, and VIII)  
5 whether the pension [be] is payable by the State or by any  
6 county, or by any board, commission, bureau, department, or  
7 other agency thereof:

8 (1) No recipient or beneficiary shall be permitted to draw  
9 any pension, or any portion thereof, in excess of \$50  
10 per month, while the recipient or beneficiary is  
11 holding any salaried position or office in, under, or  
12 by authority of the United States, the State, or any  
13 political subdivision thereof. This paragraph shall  
14 not apply to any recipient or beneficiary who is  
15 elected to the legislature or to the council of any  
16 county[-];

17 (2) If the recipient or beneficiary is a surviving spouse  
18 or surviving reciprocal beneficiary, the pension so  
19 granted shall cease when the surviving spouse or  
20 surviving reciprocal beneficiary remarries, marries,  
21 or enters into a new reciprocal beneficiary  
22 relationship[-];



- 1           (3) Any pension payable to any minor shall cease when the  
2           minor reaches the age of eighteen years [-]; and
- 3           (4) If any recipient or beneficiary of a pension, having a  
4           spouse or reciprocal beneficiary at the time the  
5           pension was first granted to the recipient or  
6           beneficiary dies, then the spouse or reciprocal  
7           beneficiary, as long as the spouse or reciprocal  
8           beneficiary remains unmarried or not in a reciprocal  
9           beneficiary relationship, shall be paid sixty per cent  
10          of the amount of the pension payable to the  
11          beneficiary."

12          SECTION 4. Section 88-85, Hawaii Revised Statutes, is  
13          amended by amending subsections (a) and (b) to read as follows:

14          "(a) In the case of an accidental death as determined by  
15          the board pursuant to section 88-85.5, there shall be paid to  
16          the member's designated beneficiary or to the member's estate  
17          the amount of the member's accumulated contributions and there  
18          shall be paid in lieu of the ordinary death benefit payable  
19          under section 88-84, a pension of one-half of the average final  
20          compensation of the member:

- 21          (1) To the surviving spouse or surviving reciprocal  
22          beneficiary of the member to continue until the



1 surviving spouse or surviving reciprocal beneficiary  
2 remarries, marries, or enters into a new reciprocal  
3 beneficiary relationship; provided that payments under  
4 this paragraph shall not terminate when a surviving  
5 spouse or surviving reciprocal beneficiary of a police  
6 officer, firefighter, deputy sheriff, or public safety  
7 officer remarries, marries, or enters into a new  
8 reciprocal beneficiary relationship;

- 9 (2) If there [~~be~~] is no surviving spouse or surviving  
10 reciprocal beneficiary, or if the surviving spouse or  
11 surviving reciprocal beneficiary dies or remarries,  
12 marries, or enters into a new reciprocal beneficiary  
13 relationship before any child of the deceased member  
14 shall have attained the age of eighteen years, then to  
15 the deceased member's child or children under the age  
16 of eighteen, divided in the manner as the board in its  
17 discretion shall determine, to continue as a joint and  
18 survivor pension of one-half of the deceased member's  
19 final compensation until every child dies, or attains  
20 the age of eighteen; [~~or~~] provided that this paragraph  
21 shall not apply if payments are being made to a  
22 surviving spouse or surviving reciprocal beneficiary



1       of a police officer, firefighter, deputy sheriff, or  
2       public safety officer, unless the surviving spouse or  
3       surviving reciprocal beneficiary dies before any child  
4       of the deceased member attains the age of eighteen  
5       years; or

- 6       (3) If there is no surviving spouse or surviving  
7       reciprocal beneficiary or child under the age of  
8       eighteen years surviving the deceased member, then to  
9       the deceased member's dependent father or dependent  
10      mother, as the deceased member shall have nominated by  
11      written designation duly acknowledged and filed with  
12      the board, or if there is no nomination, then to the  
13      deceased member's dependent father or to the deceased  
14      member's dependent mother as the board, in its  
15      discretion, shall direct to continue for life.

16      The pension shall be effective on the first day of the month  
17      following the member's death, except for the month of December,  
18      when benefits shall be effective on the first or last day of the  
19      month.

20      (b) Notwithstanding any other law to the contrary, any  
21      condition of impairment of health caused by any disease of the  
22      heart, lungs, or respiratory system, resulting in death to a



1 firefighter, police officer, or sewer worker, shall be presumed  
2 to have been suffered in the actual performance of duty at some  
3 definite time and place through no wilful negligence on the  
4 firefighter's, police officer's, or sewer worker's part, and as  
5 a result of the inherent occupational hazard of exposure to and  
6 inhalation of smoke, toxic gases, chemical fumes, and other  
7 toxic vapors, unless the contrary [be] is shown by competent  
8 evidence; provided that [sueh] the firefighter, police officer,  
9 or sewer worker shall have passed a physical examination on  
10 entry or subsequent entry into [sueh] that service [~~er~~  
11 ~~subsequent to such entry~~], which examination failed to reveal  
12 any evidence of [sueh] that condition."

13 SECTION 5. Section 88-163, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§88-163 Death benefits: funeral expenses; payments to**  
16 **dependents.** (a) Upon the death of any member of the police  
17 force, fire department, or band, as a result of any injury  
18 received or disease contracted while in the performance of [his]  
19 the member's duty, or when entitled to a pension under this part  
20 or who has been pensioned under this part there shall be paid,  
21 for funeral expenses, a sum not to exceed \$100. Should the  
22 deceased member leave a dependent [~~widew~~] spouse or reciprocal



1 beneficiary and a child or children under the age of eighteen  
2 years, then there shall be paid out of the system \$50 per month  
3 to the [~~widow~~] spouse until [~~her~~] the spouse's death or  
4 remarriage or to the reciprocal beneficiary until death,  
5 marriage, or entry into a new reciprocal beneficiary  
6 relationship and \$7.50 per month to the [~~widow~~] spouse or  
7 reciprocal beneficiary for each child so long as the child shall  
8 reside with the [~~widow~~] spouse or reciprocal beneficiary or is  
9 supported by the [~~widow~~] spouse or reciprocal beneficiary[~~-~~];  
10 provided that termination of payments under this subsection upon  
11 remarriage, marriage, or entry into a new reciprocal beneficiary  
12 relationship shall not apply where payments arise out of the  
13 deceased member's employment with the police or fire department.  
14 Upon the death of [~~such widow~~] the spouse or reciprocal  
15 beneficiary, or in the event the deceased member leaves no  
16 [~~widow~~] spouse or reciprocal beneficiary but a child or children  
17 under the age of eighteen years, then there shall be paid out of  
18 the system \$50 per month to the child or children of the  
19 deceased member under the age of eighteen years with each child,  
20 if there [~~be~~] is more than one, receiving an equal share of the  
21 \$50 per month payment plus \$7.50 per month. All payments to a





1 child of a deceased member provided for herein shall cease when  
2 ~~[he or she]~~ the child arrives at the age of eighteen years.

3 (b) If any member of the police force, fire department, or  
4 band~~[7]~~ dies not leaving a ~~[widow]~~ spouse or reciprocal  
5 beneficiary, but leaving a father or mother dependent upon ~~[him]~~  
6 the member, the father or mother (but not both) ~~[shall]~~, upon  
7 satisfactory proof of dependency being made to the board of  
8 trustees, shall receive from the system a sum not exceeding \$50  
9 per month. The board shall determine whether the father or  
10 mother is dependent and how much of the amount ~~[herein]~~ provided  
11 for in this section shall be paid to ~~[him or her.]~~ that father  
12 or mother. If there ~~[be]~~ is no ~~[widow]~~ spouse or reciprocal  
13 beneficiary and no child and no father or mother, but dependent  
14 brothers or sisters, then ~~[such]~~ the pension shall be paid to  
15 them in ~~[such]~~ sums as shall not exceed the aggregate amount of  
16 \$30 per month. All pensions authorized as provided in this  
17 subsection shall be subject to reduction by the board of  
18 trustees whenever, in its judgment, circumstances make it  
19 reasonable, fair, or necessary. All pensions so reduced may  
20 thereafter be restored or further reduced as the board may deem  
21 best.



1           (c) On the remarriage or entry into a new reciprocal  
2 beneficiary relationship of any [~~widow~~] spouse or reciprocal  
3 beneficiary where the spouse or reciprocal beneficiary is  
4 entitled to the benefits of any sum, or in the event of any  
5 father or mother, or brothers or sisters ceasing to be  
6 dependents, then the payments to them shall cease."

7           SECTION 6. Section 88-286, Hawaii Revised Statutes, is  
8 amended by amending subsections (b) and (c) to read as follows:

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

11           (1) For the surviving spouse or surviving reciprocal  
12 beneficiary, an allowance equal to one-half of the  
13 member's accrued maximum retirement allowance  
14 unreduced for age, payable until remarriage, marriage,  
15 or entry into a new reciprocal beneficiary  
16 relationship, as if the member had retired on the  
17 first day of a month following the member's death,  
18 except for the month of December when retirement on  
19 the first or last day of the month shall be allowed;  
20 and for each child under the age of eighteen an  
21 allowance equal to ten per cent of the member's  
22 accrued maximum retirement allowance unreduced for



1 age, payable until the child attains age eighteen;  
2 provided that the aggregate death benefits for all the  
3 children under the age of eighteen shall not exceed  
4 twenty per cent of the member's accrued retirement  
5 allowance unreduced for age; or

6 (2) For the surviving spouse or surviving reciprocal  
7 beneficiary, if the member was eligible for retirement  
8 at the time of death in service, and death occurred  
9 after June 30, 1990, an allowance that would have been  
10 payable as if the member had retired on the first day  
11 of a month following the member's death, except for  
12 the month of December when retirement on the first or  
13 last day of the month shall be allowed, and had  
14 elected to receive a retirement allowance under  
15 option B of section 88-283; and

16 (3) If there is no surviving spouse or surviving  
17 reciprocal beneficiary, each child under the age of  
18 eighteen shall receive an allowance equal to twenty  
19 per cent of the member's accrued maximum retirement  
20 allowance unreduced for age, payable on the first day  
21 of a month following the member's death, except for  
22 the month of December when retirement on the first or



1 last day of the month shall be allowed, until the  
2 child attains age eighteen; provided that the  
3 aggregate death benefits for all the children under  
4 the age of eighteen shall not exceed forty per cent of  
5 the member's accrued maximum retirement allowance  
6 unreduced for age.

7 For the purpose of determining eligibility for the ordinary  
8 death benefit, a year round school employee shall be considered  
9 in service during the July and August preceding a transfer to a  
10 traditional school schedule if the employee was in service for  
11 the entire prior school year and has a contract for the upcoming  
12 traditional school year. The application for ordinary death  
13 benefits shall be filed no later than three years from the date  
14 of the member's death.

15 (c) In the case of accidental death as determined by the  
16 board pursuant to section 88-85.5, the death benefit shall be  
17 effective on the first day of the month following the member's  
18 death, except for the month of December when retirement on the  
19 first or last day of the month shall be allowed, as follows:

- 20 (1) For the surviving spouse or surviving reciprocal  
21 beneficiary, an allowance equal to thirty per cent of  
22 the member's average final compensation, payable until



1           remarriage, marriage, or upon entry into a new  
2           reciprocal beneficiary relationship; provided that  
3           payments shall continue to a surviving spouse or  
4           surviving reciprocal beneficiary of a police officer,  
5           firefighter, deputy sheriff, or public safety officer  
6           who remarries, marries, or enters into a new  
7           reciprocal beneficiary relationship;

8           (2) If there is a surviving spouse or surviving reciprocal  
9           beneficiary, each child under the age of eighteen  
10          shall receive an allowance equal to the greater of:

11          (A) Ten per cent of the member's accrued maximum  
12             retirement allowance unreduced for age; provided  
13             that the aggregate death benefits for all the  
14             children under the age of eighteen shall not  
15             exceed twenty per cent of the member's accrued  
16             maximum retirement allowance unreduced for age;  
17             or

18          (B) Three per cent of the member's average final  
19             compensation; provided that the aggregate death  
20             benefits for all the children under the age of  
21             eighteen shall not exceed six per cent of the  
22             member's average final compensation.



1           The death benefit under this paragraph shall be  
2           payable to each child until the child attains age  
3           eighteen; and

4           (3) If there is no surviving spouse or surviving  
5           reciprocal beneficiary, each child under the age of  
6           eighteen shall receive an allowance equal to the  
7           greater of:

8           (A) Twenty per cent of the member's accrued maximum  
9           retirement allowance unreduced for age; provided  
10           that the aggregate death benefits for all the  
11           children under the age of eighteen shall not  
12           exceed forty per cent of the member's accrued  
13           maximum retirement allowance unreduced for age;  
14           or

15           (B) Six per cent of the member's average final  
16           compensation; provided that the aggregate death  
17           benefits for all the children under the age of  
18           eighteen shall not exceed twelve per cent of the  
19           member's average final compensation.

20           The death benefit under this paragraph shall be  
21           payable to each child until the child attains age  
22           eighteen."



1 SECTION 7. Section 88-339, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) In the case of an accidental death as determined by  
4 the board pursuant to section 88-85.5, there shall be paid to  
5 the member's designated beneficiary or to the member's estate  
6 the amount of the member's accumulated contributions and there  
7 shall be paid in lieu of the ordinary death benefit payable  
8 under section 88-338 a pension of one-half of the average final  
9 compensation of the member:

10 (1) To the surviving spouse or surviving reciprocal  
11 beneficiary of the member to continue until the  
12 surviving spouse or surviving reciprocal beneficiary  
13 remarries, marries, or enters into a new reciprocal  
14 beneficiary relationship; provided that payments shall  
15 continue to a surviving spouse or surviving reciprocal  
16 beneficiary of a police officer, firefighter, deputy  
17 sheriff, or public safety officer who remarries,  
18 marries, or enters into a new reciprocal beneficiary  
19 relationship;

20 (2) If there ~~[be]~~ is no surviving spouse or surviving  
21 reciprocal beneficiary, or if the surviving spouse or  
22 surviving reciprocal beneficiary dies or remarries,



1 marries, or enters into a new reciprocal beneficiary  
2 relationship before any child of the deceased member  
3 shall have attained the age of eighteen years, then to  
4 the deceased member's child or children under that  
5 age, divided in a manner as the board in its  
6 discretion shall determine, to continue as a joint and  
7 survivor pension of one-half of the deceased member's  
8 final compensation until every child dies, or attains  
9 that age; ~~[or]~~ provided that this paragraph shall not  
10 apply if payments are being made to a surviving spouse  
11 or surviving reciprocal beneficiary of a police  
12 officer, firefighter, deputy sheriff, or public safety  
13 officer, unless the surviving spouse or surviving  
14 reciprocal beneficiary dies before any child of the  
15 deceased member attains the age of eighteen years; or

- 16 (3) If there is no surviving spouse or surviving  
17 reciprocal beneficiary and no child under the age of  
18 eighteen years surviving the deceased member, then to  
19 the deceased member's dependent father or dependent  
20 mother, as the deceased member shall have nominated by  
21 written designation duly acknowledged and filed with  
22 the board, or if there is no nomination, then to the





1           deceased member's dependent father or to the deceased  
2           member's dependent mother as the board, in its  
3           discretion, shall direct to continue for life.

4   The pension shall be effective on the first day of the month  
5   following the member's death, except for the month of December,  
6   when benefits shall be effective on the first or last day of the  
7   month.

8           (b) Notwithstanding any other law to the contrary, any  
9   condition of impairment of health caused by any disease of the  
10   heart, lungs, or respiratory system, resulting in death to a  
11   sewer worker shall be presumed to have been suffered in the  
12   actual performance of duty at some definite time and place  
13   through no wilful negligence on the sewer worker's part, and as  
14   a result of the inherent occupational hazard of exposure to and  
15   inhalation of smoke, toxic gases, chemical fumes, and other  
16   toxic vapors, unless the contrary [~~be~~] is shown by competent  
17   evidence; provided that the sewer worker shall have passed a  
18   physical examination on entry into that service or subsequent to  
19   entry, which examination failed to reveal any evidence of [~~the~~]  
20   that condition."

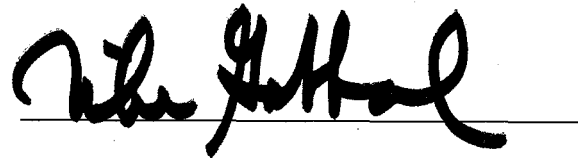
21           SECTION 8. Statutory material to be repealed is bracketed  
22   and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.

2

INTRODUCED BY:





**Report Title:**

Employees' Retirement System; Surviving Spouse or Reciprocal Beneficiary Benefits

**Description:**

Allows the surviving spouse or surviving reciprocal beneficiary of a police officer, firefighter, deputy sheriff, or public safety officer in the employees' retirement system who died in the line of duty to remarry, marry, or enter into a new reciprocal beneficiary relationship and to continue to receive pension and other retirement benefits arising from their former spouse's employment. Allows for the reinstatement of benefits.

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

