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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:**

**PART I**

1  
2 SECTION 1. Section 88-73, Hawaii Revised Statutes, is  
3 amended by amending subsection (b) to read as follows:

4 "(b) Any member who became a member before July 1, 2012,  
5 and first earned credited service as a judge after June 30,  
6 1999, [~~but before July 1, 2012,~~] and who [~~has~~]:

7 (1) Has at least five years of credited service and has  
8 attained age fifty-five; or [~~has~~]

9 (2) Has at least twenty-five years of credited service,  
10 shall become eligible to receive a retirement allowance after  
11 the member has terminated service. [~~Any member who first earned~~  
12 ~~credited service as a judge after June 30, 2012, and has at~~  
13 ~~least ten years of credited service and has attained age sixty~~  
14 ~~or has at least twenty five years of credited service and has~~  
15 ~~attained age fifty five shall be eligible to receive a~~  
16 ~~retirement allowance after the member has terminated service.]"~~

17 SECTION 2. Section 88-74, Hawaii Revised Statutes, is  
18 amended as follows:



1           1. By amending subsections (c) and (d) to read:  
2           "(c) If a member, who became a member prior to July 1,  
3 2012, has credited service as a judge, the member's retirement  
4 allowance shall be computed on the following basis:  
5           (1) For a member who has credited service as a judge  
6           before July 1, 1999, irrespective of age, for each  
7           year of credited service as a judge, three and one-  
8           half per cent of the member's average final  
9           compensation in addition to an annuity that is the  
10          actuarial equivalent of the member's accumulated  
11          contributions allocable to the period of service;  
12          (2) For a member who first earned credited service as a  
13          judge after June 30, 1999, but before July 1, 2012,  
14          for each year of credited service as a judge, three  
15          and one-half per cent of the member's average final  
16          compensation in addition to an annuity that is the  
17          actuarial equivalent of the member's accumulated  
18          contributions allocable to the period of service. If  
19          the member has not attained age fifty-five, the  
20          member's retirement allowance shall be computed as  
21          though the member had attained age fifty-five, reduced  
22          for age as provided in subsection (e);



- 1           (3) For a member who first earned credited service as a  
2           judge after June 30, 2012, for each year of credited  
3           service as a judge, three per cent of the member's  
4           average final compensation in addition to an annuity  
5           that is the actuarial equivalent of the member's  
6           accumulated contributions allocable to the period of  
7           service. If the member has not attained age [~~sixty~~,  
8           fifty-five, the member's retirement allowance shall be  
9           computed as though the member had attained age  
10          [~~sixty~~] fifty-five, reduced for age as provided in  
11          subsection [~~(i)~~] (e);
- 12          (4) For a judge with other credited service, as provided  
13          in subsection (b). If the member has not attained age  
14          fifty-five, the member's retirement allowance shall be  
15          computed as though the member had attained age fifty-  
16          five, reduced for age as provided in subsection (e);  
17          or
- 18          (5) For a judge with credited service as an elective  
19          officer or as a legislative officer, as provided in  
20          subsection (d).

21 No allowance shall exceed seventy-five per cent of the member's  
22 average final compensation. If the allowance exceeds this



1 limit, it shall be adjusted by reducing the annuity included in  
2 paragraphs (1), (2), and (3) and the portion of the accumulated  
3 contributions specified in paragraphs (1), (2), and (3) in  
4 excess of the requirements of the reduced annuity shall be  
5 returned to the member upon the member's retirement or paid to  
6 the member's designated beneficiary upon the member's death  
7 while in service or while on authorized leave without pay. The  
8 allowance for judges under this subsection, together with the  
9 retirement allowance provided by the federal government for  
10 similar service, shall in no case exceed seventy-five per cent  
11 of the member's average final compensation.

12 (d) If a member, who became a member before July 1, 2012,  
13 has credited service as an elective officer or as a legislative  
14 officer, the member's retirement allowance shall be derived by  
15 adding the allowances computed separately under paragraphs (1),  
16 (2), (3), (4), (5), and (6) as follows:

17 (1) For a member who has credited service as an elective  
18 officer before July 1, 2012, irrespective of age, for  
19 each year of credited service as an elective officer,  
20 three and one-half per cent of the member's average  
21 final compensation as computed under section  
22 88-81(e)(1), in addition to an annuity that is the



- 1 actuarial equivalent of the member's accumulated  
2 contributions allocable to the period of service;
- 3 (2) For a member, who first earned credited service as an  
4 elective officer after June 30, 2012, irrespective of  
5 age, for each year of credited service as an elective  
6 officer, three per cent of the member's average final  
7 compensation as computed under section 88-81(e)(1), in  
8 addition to an annuity that is the actuarial  
9 equivalent of the member's accumulated contributions  
10 allocable to the period of service;
- 11 (3) For a member who has credited service as a legislative  
12 officer before July 1, 2012, irrespective of age, for  
13 each year of credited service as a legislative  
14 officer, three and one-half per cent of the member's  
15 average final compensation as computed under section  
16 88-81(e)(2), in addition to an annuity that is the  
17 actuarial equivalent of the member's accumulated  
18 contributions allocable to the period of service;
- 19 (4) For a member who first earned credited service as a  
20 legislative officer after June 30, 2012, irrespective  
21 of age, for each year of credited service as a  
22 legislative officer, three per cent of the member's



1 average final compensation as computed under section  
2 88-81(e)(2), in addition to an annuity that is the  
3 actuarial equivalent of the member's accumulated  
4 contributions allocable to the period of service;

5 (5) If the member has credited service as a judge, the  
6 member's retirement allowance shall be computed on the  
7 following basis:

8 (A) For a member who has credited service as a judge  
9 before July 1, 1999, irrespective of age, for  
10 each year of credited service as a judge, three  
11 and one-half per cent of the member's average  
12 final compensation as computed under section  
13 88-81(e)(3), in addition to an annuity that is  
14 the actuarial equivalent of the member's  
15 accumulated contributions allocable to the period  
16 of service;

17 (B) For a member who first earned credited service as  
18 a judge after June 30, 1999, but before July 1,  
19 2012, and has attained the age of fifty-five, for  
20 each year of credited service as a judge, three  
21 and one-half per cent of the member's average  
22 final compensation as computed under section



1 88-81(e)(3), in addition to an annuity that is  
2 the actuarial equivalent of the member's  
3 accumulated contributions allocable to the period  
4 of service. If the member has not attained age  
5 fifty-five, the member's retirement allowance  
6 shall be computed as though the member had  
7 attained age fifty-five, reduced for age as  
8 provided in subsection (e); and

9 (C) For a member who first earned credited service as  
10 a judge after June 30, 2012, and has attained the  
11 age of [~~sixty,~~] fifty-five, for each year of  
12 credited service as a judge, three per cent of  
13 the member's average final compensation as  
14 computed under section 88-81(e)(3), in addition  
15 to an annuity that is the actuarial equivalent of  
16 the member's accumulated contributions allocable  
17 to the period of service. If the member has not  
18 attained age [~~sixty,~~] fifty-five, the member's  
19 retirement allowance shall be computed as though  
20 the member had attained age [~~sixty,~~] fifty-five,  
21 reduced for age as provided in subsection [~~(i);~~]  
22 (e); and



1 (6) For each year of credited service not included in  
2 paragraph (1), (2), (3), (4), or (5), the average  
3 final compensation as computed under section  
4 88-81(e)(4) shall be multiplied by two per cent for  
5 credited service earned as a class A or class H  
6 member, two and one-half per cent for credited service  
7 earned as a class B member, and one and one-quarter  
8 per cent for credited service earned as a class C  
9 member. If the member has not attained age fifty-  
10 five, the member's retirement allowance shall be  
11 computed as though the member had attained age fifty-  
12 five, reduced for age as provided in subsection (e).

13 The total retirement allowance shall not exceed seventy-five per  
14 cent of the member's highest average final compensation  
15 calculated under section 88-81(e)(1), (2), (3), or (4). If the  
16 allowance exceeds this limit, it shall be adjusted by reducing  
17 any annuity accrued under paragraphs 1, 2, 3, 4, and 5 and the  
18 portion of the accumulated contributions specified in these  
19 paragraphs in excess of the requirements of the reduced annuity  
20 shall be returned to the member upon the member's retirement or  
21 paid to the member's designated beneficiary upon the member's  
22 death while in service or while on authorized leave without pay.





1 If a member has service credit as an elective officer or as a  
2 legislative officer in addition to service credit as a judge,  
3 then the retirement benefit calculation contained in this  
4 subsection shall supersede the formula contained in subsection  
5 (c)."

6 2. By amending subsection (f) to read:

7 "(f) If a member, who becomes a member after June 30,  
8 2012, has attained age sixty, the member's maximum retirement  
9 allowance shall be one and three-fourths per cent of the  
10 member's average final compensation multiplied by the total  
11 number of years of the member's credited service as a class A  
12 and class B member, excluding any credited service as a judge,  
13 elective officer, or legislative officer, plus a retirement  
14 allowance of one and one-fourth per cent of the member's average  
15 final compensation multiplied by the total number of years of  
16 prior credited service as a class C member, plus a retirement  
17 allowance of one and three-fourths per cent of the member's  
18 average final compensation multiplied by the total number of  
19 years of prior credited service as a class H member; provided  
20 that:

21 (1) If the member has at least ten years of credited  
22 service of which the last five or more years prior to



1 retirement is credited service as a firefighter,  
2 police officer, or an investigator of the department  
3 of the prosecuting attorney;

4 (2) If the member has at least ten years of credited  
5 service of which the last five or more years prior to  
6 retirement is credited service as a corrections  
7 officer;

8 (3) If the member has at least ten years of credited  
9 service of which the last five or more years prior to  
10 retirement is credited service as an investigator of  
11 the department of the attorney general;

12 (4) If the member has at least ten years of credited  
13 service of which the last five or more years prior to  
14 retirement is credited service as a narcotics  
15 enforcement investigator;

16 ~~+(5) If the member has at least ten years of credited~~  
17 ~~service of which the last five or more years prior to~~  
18 ~~retirement is credited service as a water safety~~  
19 ~~officer;~~

20 ~~+(6)]~~ (5) If the member has at least ten years of credited  
21 service, of which the last five or more years prior to



1 retirement is credited service as a public safety  
2 investigations staff investigator;

3 [~~7~~] (6) If the member:

4 (A) Has at least ten years of credited service as a  
5 firefighter;

6 (B) Is deemed permanently medically disqualified due  
7 to a service related disability to be a  
8 firefighter by the employer's physician; and

9 (C) Continues employment in a class A or class B  
10 position other than a firefighter; and

11 [~~8~~] (7) If the member:

12 (A) Has at least ten years of credited service as a  
13 police officer;

14 (B) Is deemed permanently medically disqualified due  
15 to a service related disability to be a police  
16 officer by the employer's physician; and

17 (C) Continues employment in a class A or class B  
18 position other than a police officer,

19 then for each year of service as a firefighter, police officer,  
20 corrections officer, investigator of the department of the  
21 prosecuting attorney, investigator of the department of the  
22 attorney general, narcotics enforcement investigator, [~~water~~



1 ~~safety officer,~~] or public safety investigations staff  
2 investigator, the retirement allowance shall be two and one-  
3 fourth per cent of the member's average final compensation. The  
4 maximum retirement allowance for those members shall not exceed  
5 eighty per cent of the member's average final compensation. If  
6 the member has not attained age sixty, the member's retirement  
7 allowance shall be computed as though the member had attained  
8 age sixty, reduced for age as provided in subsection (i)."

9 3. By amending subsection (i) to read:

10 "(i) Except as provided in subsections (f), (g), and (h),  
11 if a member, who becomes a member after June 30, 2012, has not  
12 attained age sixty at the date of retirement, the member's  
13 retirement allowance shall be reduced, for each month the  
14 member's age at the date of retirement is below age sixty, as  
15 follows:

16 (1) 0.4166 per cent for each month below age [~~fifty-nine~~  
17 sixty and above age fifty-four and eleven months; plus

18 (2) 0.3333 per cent for each month below age fifty-five  
19 and above age forty-nine and eleven months; plus

20 (3) 0.2500 per cent for each month below age fifty and  
21 above age forty-four and eleven months; plus

22 (4) 0.1666 per cent for each month below age forty-five;



1 provided that no reduction shall be made if the member has  
2 attained the age of fifty-five and has at least twenty-five  
3 years of credited service as a firefighter, police officer,  
4 corrections officer, investigator of the department of the  
5 prosecuting attorney, investigator of the department of the  
6 attorney general, narcotics enforcement investigator, public  
7 safety investigations staff investigator, sewer worker, water  
8 safety officer, or emergency medical technician, of which the  
9 last five or more years prior to retirement is credited service  
10 in these capacities."

11 SECTION 3. Section 88-81, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) Average final compensation is the average annual  
15 compensation, pay, or salary upon which a member has made  
16 contributions as required by parts II, VII, and VIII of this  
17 chapter."

18 2. By amending subsection (f) to read:

19 "(f) If a member, who becomes a member after June 30,  
20 2012, has credited service rendered as an elective officer or as  
21 a legislative officer, the member's average final compensation



1 shall be computed separately for each category of service as  
2 follows:

- 3 (1) For the five highest paid years of credited service as  
4 an elective officer, or if the member has fewer than  
5 five years of credited service in that capacity, then  
6 the member's actual years of credited service;
- 7 (2) For the five highest paid years of credited service as  
8 a legislative officer, or if the member has fewer than  
9 five years of credited service in that capacity, then  
10 the member's actual years of credited service;
- 11 (3) For the five highest paid years of credited service as  
12 a judge, or if the member has fewer than [~~three~~] five  
13 years of credited service in that capacity, then the  
14 member's actual years of credited service; and
- 15 (4) For the five highest paid years of credited service  
16 not included in paragraph (1), (2), or (3), or if the  
17 member has fewer than five years of credited service  
18 in that capacity, then the member's actual years of  
19 credited service."

20 SECTION 4. Section 88-335, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           **"§88-335 Ordinary disability retirement allowance. (a)**

2   Upon retirement for ordinary disability, a class H member who  
3   became a member before July 1, 2012, shall receive a maximum  
4   retirement allowance equal to the higher of either:

5           (1) Two per cent of the average final compensation  
6                 multiplied by the number of years of class H credited  
7                 service unreduced for age, plus one and one-fourth per  
8                 cent of the member's average final compensation  
9                 multiplied by the number of years of class C credited  
10                service unreduced for age; or

11           (2) Twenty-five per cent of the member's average final  
12                compensation.

13           (b) Upon retirement for ordinary disability, a class H  
14   member who becomes a member after June 30, 2012, shall receive a  
15   maximum retirement allowance equal to the higher of either:

16           (1) One and three-fourths per cent of the average final  
17               compensation multiplied by the number of years of  
18               class H credited service unreduced for age, plus one  
19               and one-fourth per cent of the member's average final  
20               compensation multiplied by the number of years of  
21               class C credited service unreduced for age; or



1        (2) Twenty-five per cent of the member's average final  
2                    compensation."

3            SECTION 5. Section 88-338, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5            "(a) Upon receipt by the system of proper proof of a class  
6 H member's death occurring in service or while on authorized  
7 leave without pay and if no pension is payable under section  
8 88-339, there shall be paid to the member's designated  
9 beneficiary an ordinary death benefit as follows:

10           (1) [~~If the member had less than five years of credited~~  
11                ~~service at the time of death, the~~] The member's  
12                accumulated contributions shall be paid to the  
13                member's designated beneficiary[+] if:

14                (A) The member became a member before July 1, 2012,  
15                        and had less than five years of credited service  
16                        at the time of death; or

17                (B) The member became a member after June 30, 2012,  
18                        and had less than ten years of credited service  
19                        at the time of death;

20           (2) [~~If the member had five or more years of credited~~  
21                ~~service at the time of death, an~~] An amount equal to





1 the member's hypothetical account balance shall be  
2 paid to the member's designated beneficiary[+] if:  
3 (A) The member became a member before July 1, 2012,  
4 and had five or more years of credited service at  
5 the time of death; or  
6 (B) The member became a member after June 30, 2012,  
7 and had ten or more years of credited service at  
8 the time of death;

9 (3) If the member had ten or more years of credited  
10 service at the time of death, the member's designated  
11 beneficiary may elect to receive in lieu of any other  
12 payment provided in this section, the allowance that  
13 would have been payable as if the member had retired  
14 on the first day of a month following the member's  
15 death, except for the month of December when  
16 retirement on the first or last day of the month shall  
17 be allowed. Benefits payable under this paragraph  
18 shall be calculated under option 3 of section 88-83  
19 and computed on the basis of section 88-332, unreduced  
20 for age; or

21 (4) If the member was eligible for service retirement at  
22 the time of death, the member's designated beneficiary





1        (b) The last employer of the employee or former employee  
2 shall pay the contribution calculated under subsection (a).

3        (c) An excess maximum retirement allowance resulting from  
4 spiking occurs when:

5        (1) The employee's or former employee's average non-base  
6 pay, divided by the employee's or former employee's  
7 average base pay, is greater than ten per cent; and

8        (2) The employee's or former employee's average final  
9 compensation non-base pay ratio divided by the  
10 comparison period non-base pay ratio is greater than  
11 or equal to one-hundred twenty per cent.

12        (d) The amount of the "excess maximum retirement allowance  
13 resulting from spiking" is the amount by which an employee or  
14 former employee's maximum retirement allowance exceeds what the  
15 employee or former employee's maximum retirement allowance would  
16 be if the employee or former employee's average final  
17 compensation were equal to the employee's or former employee's  
18 average base pay multiplied by the sum of one and the employee's  
19 or former employee's comparison period non-base pay ratio."

20        SECTION 7. Section 88-21, Hawaii Revised Statutes, is  
21 amended by adding seven new definitions to be appropriately  
22 inserted and to read as follows:



1       "Average base pay" means the total base pay included in a  
2 member's average final compensation, divided by the number of  
3 years used to determine average final compensation.

4       "Average final compensation non-base pay ratio" means the  
5 average non-base pay divided by the average base pay.

6       "Average non-base pay" means the total non-base pay  
7 included in a member's average final compensation divided by the  
8 number of years used to determine the member's average final  
9 compensation.

10       "Comparison period" means those years in the ten years of  
11 credited service prior to termination of service that are not  
12 included in the period for determining a member's average final  
13 compensation or, if the member has less than ten years of  
14 credited service prior to termination of service, the years of  
15 the member's credited service that are not included in the  
16 determination of the member's average final compensation.

17       "Comparison period average base pay" means the total base  
18 pay for the comparison period divided by the number of years in  
19 the comparison period.

20       "Comparison period average non-base pay" means the total  
21 non-base pay for the comparison period divided by the number of  
22 years in the comparison period.



1        "Comparison period non-base pay ratio" means the comparison  
2 period average non-base pay divided by the comparison period  
3 average base pay."

4        SECTION 8. Section 88-21.5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        **"§88-21.5 Compensation.** (a) Unless a different meaning  
7 is plainly required by context, as used in this part,  
8 "compensation" means normal periodic payments of money for  
9 service the right to which accrues on a regular basis in  
10 proportion to the service performed; overtime[~~7~~] and  
11 differentials[~~7~~, ~~and supplementary payments~~]; bonuses and lump  
12 sum salary supplements; and elective salary reduction  
13 contributions under sections 125, 403(b), and 457(b) of the  
14 Internal Revenue Code of 1986, as amended. Bonuses and lump sum  
15 salary supplements shall be deemed earned when payable; provided  
16 that bonuses or lump sum salary supplements in excess of one-  
17 twelfth of compensation for the twelve months prior to the month  
18 in which the bonus or lump sum salary supplement is payable,  
19 exclusive of overtime, bonuses, and lump sum salary supplements,  
20 shall be deemed earned:



1 (1) During the period agreed-upon by the employer and  
2 employee, but in any event over a period of not less  
3 than twelve months; or

4 (2) In the absence of an agreement between the employer  
5 and the employee, over the twelve months prior to the  
6 date on which the bonus or lump sum salary supplement  
7 is payable.

8 (b) Unless a different meaning is plainly required by  
9 context, as used in this part:

10 (1) "Base pay" means normal periodic payments of money for  
11 service, the right to which accrues on a regular basis  
12 in proportion to the service performed; recurring  
13 differentials; and elective salary reduction  
14 contributions under sections 125, 403(b), and 457(b)  
15 of the Internal Revenue Code of 1986, as amended.

16 (2) "Non-base pay" means all compensation that is not base  
17 pay. Non-base pay includes overtime, non-recurring  
18 differentials, bonuses, and lump-sum salary  
19 supplements."

20 SECTION 9. Section 88-81, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           **"§88-81 Average final compensation.** (a) Average final  
2 compensation is the average annual compensation, pay, or salary  
3 upon which a member has made contributions as required by parts  
4 II, VII, and VIII of this chapter.

5           (b) The average final compensation of members shall be  
6 calculated as follows:

7           (1) For employees who become members before January 1,  
8 1971:

9           (A) During the member's five highest paid years of  
10 credited service, including vacation pay, or the  
11 three highest paid years of credited service  
12 excluding vacation pay, whichever is greater; or

13           (B) If the member has fewer than three years of  
14 credited service, during the member's actual  
15 years of credited service;

16           (2) For employees who become members after December 31,  
17 1970, but before July 1, 2012:

18           (A) During the member's three highest paid years of  
19 credited service, excluding vacation pay; or

20           (B) If the member has fewer than three years of  
21 credited service, during the member's actual  
22 years of credited service; and



1 (3) For employees who become members after June 30, 2012:

2 (A) During the member's five highest paid years of  
3 credited service, excluding vacation pay; or

4 (B) If the member has fewer than five years of  
5 credited service, during the member's actual  
6 years of credited service.

7 (c) In computing the compensation of a judge, the  
8 compensation paid to the judge by the United States as well as  
9 by the Territory shall be included.

10 (d) For service rendered as a member of the legislature  
11 from and after November 5, 1968, the actual annual salary of a  
12 member shall be the only amount used for determining the  
13 member's average final compensation. For service rendered as a  
14 member of the legislature prior to November 5, 1968, and after  
15 admission of this State into the Union, the annual compensation  
16 of a member shall be computed, for the purpose of determining  
17 the member's average final compensation, as follows:

18 (1) During a year in which a general session was held, it  
19 shall be deemed to have been an amount equal to four  
20 times the salary of a member of the legislature for a  
21 general session; and





1           (2) During a year in which a budget session was held, it  
2           shall be deemed to have been an amount equal to six  
3           times the salary of a member of the legislature for a  
4           budget session.

5 For service rendered as a member of the legislature prior to the  
6 admission of this State into the Union, the annual compensation  
7 of a member shall be deemed to have been four times the salary  
8 of a member of the legislature for a regular session for each  
9 year during the member's term of office.

10           (e) If a member, who became a member before July 1, 2012,  
11 has credited service rendered as an elective officer or as a  
12 legislative officer, the member's average final compensation  
13 shall be computed separately for each category of service as  
14 follows:

15           (1) For the three highest paid years of credited service  
16           as an elective officer, or if the member has fewer  
17           than three years of credited service in that capacity,  
18           then the member's actual years of credited service;

19           (2) For the three highest paid years of credited service  
20           as a legislative officer, or if the member has fewer  
21           than three years of credited service in that capacity,  
22           then the member's actual years of credited service;



1 (3) For the three highest paid years of credited service  
2 as a judge, or if the member has fewer than three  
3 years of credited service in that capacity, then the  
4 member's actual years of credited service; and

5 (4) For the three highest paid years of credited service  
6 not included in paragraph (1), (2), or (3), or if the  
7 member has fewer than three years of credited service  
8 in that capacity, then the member's actual years of  
9 credited service.

10 (f) If a member, who becomes a member after June 30, 2012,  
11 has credited service rendered as an elective officer or as a  
12 legislative officer, the member's average final compensation  
13 shall be computed separately for each category of service as  
14 follows:

15 (1) For the five highest paid years of credited service as  
16 an elective officer, or if the member has fewer than  
17 five years of credited service in that capacity, then  
18 the member's actual years of credited service;

19 (2) For the five highest paid years of credited service as  
20 a legislative officer, or if the member has fewer than  
21 five years of credited service in that capacity, then  
22 the member's actual years of credited service;



1 (3) For the five highest paid years of credited service as  
2 a judge, or if the member has fewer than three years  
3 of credited service in that capacity, then the  
4 member's actual years of credited service; and

5 (4) For the five highest paid years of credited service  
6 not included in paragraph (1), (2), or (3), or if the  
7 member has fewer than five years of credited service  
8 in that capacity, then the member's actual years of  
9 credited service.

10 (g) If:

11 (1) A member's average non-base pay, divided by the  
12 member's average base pay, is greater than ten per  
13 cent; and

14 (2) The member's average final compensation non-base pay  
15 ratio divided by the comparison period non-base pay  
16 ratio is greater than or equal to one-hundred twenty  
17 per cent,

18 the amount by which the member's total compensation, pay, or  
19 salary during the period used to calculate average final  
20 compensation, divided by the number of years used to determine  
21 average compensation, exceeds the member's average base pay,  
22 multiplied by the sum of one and the member's comparison period



1 non-base pay ratio, shall be excluded from the calculation of  
2 the member's average final compensation. This subsection shall  
3 apply to members who become members of the system after June 30,  
4 2012.

5 (h) Subsection (g) shall apply, commencing July 1, 2015,  
6 to members who became members of the system before July 1, 2012;  
7 provided that:

8 (1) A member's average final compensation shall not be  
9 less than what the member's average final compensation  
10 would have been if the member had retired on June 30,  
11 2015; and

12 (2) Compensation, pay, or salary earned during the period  
13 used to calculate average compensation shall not be  
14 subject to the exclusion required by subsection (g),  
15 if the compensation, pay, or salary was earned before  
16 July 1, 2015."

17 **PART III**

18 SECTION 10. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 11. This Act shall take effect on July 1, 2012.



**Report Title:**

Employees' Retirement System

**Description:**

Corrects errors. Harmonizes ordinary disability and ordinary death benefits for new members of the Employees' Retirement System with their service retirement benefits. Harmonizes age and service requirements for judges who are currently members of the Employees' Retirement System with the requirements for other contributory plan members. Prevents unexpected increases in pension benefits and in the unfunded actuarial accrued liability of the Employees' Retirement System by limiting the amount of compensation included in the "average final compensation" and requiring employers to pay the additional costs resulting from spiking. (SD1)

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

