

---

# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 PART I

2 SECTION 1. Section 88-74.5, Hawaii Revised Statutes, is  
3 amended by amending subsection (a) to read as follows:

4 "(a) The system shall finalize a retirant's pension  
5 benefit within six calendar months following the month of the  
6 retirant's retirement [-] when the effective date of retirement  
7 is the first day of the month. When the effective date of  
8 retirement date is December 31, the system shall finalize a  
9 retirant's pension benefit within seven calendar months  
10 following the month of the retirant's retirement. For pension  
11 benefits finalized after the sixth calendar month following the  
12 month of the retirant's retirement [-] when the effective date of  
13 retirement is on the first day of the month, or the seventh  
14 calendar month following the month of the retirant's retirement  
15 when the effective date of retirement is December 31, an  
16 interest payment amounting to [~~four and one half~~] \_\_\_\_\_ per  
17 cent per annum shall be paid to the retirant. Interest shall be



1 calculated on the difference between the amount the retirant is  
2 entitled to receive from the retirant's retirement date up to  
3 the day the payment is made and the amount the retirant was  
4 paid, including any refund of member contributions.

5 Beginning January 1, 2004, or the first day of the seventh  
6 calendar month following the month of retirement [~~7~~] when the  
7 effective date of retirement is on the first day of the month,  
8 or the first day of the eighth calendar month following the  
9 month of retirement when the effective date of retirement is  
10 December 31, whichever is [~~later,~~] the latest, interest payments  
11 calculated as simple interest shall be prorated up to the date  
12 payment is made; provided that any pension adjustment made after  
13 the retirant's pension has once been finalized shall not be  
14 subject to any interest payment.

15 The system shall finalize ordinary and service-connected  
16 disability retirements within six calendar months following the  
17 month that the member's retirement is approved by the board or  
18 the actual retirement date specified by the member, whichever is  
19 later."

20 SECTION 2. Section 88-100, Hawaii Revised Statutes, is  
21 amended by amending subsection (e) to read as follows:



1       "(e) The additional contributions required by this section  
2 shall be payable in a lump sum [~~in the~~] within two fiscal [~~year~~]  
3 years following the fiscal year in which the employee or former  
4 employee retired; provided that, if the additional contributions  
5 required for the employees or former employees who retire in a  
6 fiscal year are greater than ten per cent of the employer's  
7 contributions (excluding the additional contributions) to the  
8 pension accumulation fund for that fiscal year, the employer may  
9 pay the additional contributions over a period of three fiscal  
10 years in installments equal to no less than one-third of the  
11 original amount of the required additional contributions, plus  
12 interest on the unpaid balance, commencing on the first day of  
13 the second fiscal year following the retirement of the employees  
14 or former employees, at an annual rate equal to the investment  
15 yield rate assumption for actuarial valuations of the system."

16   PART II

17       SECTION 3. Section 88-75, Hawaii Revised Statutes, is  
18 amended to read as follows:

19       "**§88-75 Ordinary disability retirement.** (a) [~~Upon~~] Under  
20 rules the board of trustees may adopt, upon application of a  
21 member in service or on leave without pay, or the person



1 appointed by the family court as guardian of an incapacitated  
2 member, any member who has ten or more years of credited service  
3 shall be retired by the [~~board of trustees~~] system on an  
4 ordinary disability retirement allowance if the medical board[~~7~~]  
5 or other entity designated by the board of trustees, after a  
6 medical examination of the member, certifies that:

7 (1) The member is mentally or physically incapacitated for  
8 the further performance of duty at the time of  
9 application;

10 (2) The incapacity is likely to be permanent; and

11 (3) The member should be retired.

12 (b) Upon approval by the [~~board~~]<sub>7</sub>] system, the member shall  
13 be eligible to receive an ordinary disability retirement benefit  
14 no earlier than thirty days from the date the application was  
15 filed or the date the member terminated service, whichever is  
16 later. Retirement shall be effective on the first day of a  
17 month, except for the month of December when retirement on the  
18 first or last day of the month shall be allowed. A member whose  
19 application for an ordinary disability retirement allowance is  
20 approved by the [~~board~~] system while the member is still in  
21 service may terminate service and retire at any time following



1 the approval; provided that retirement shall become effective on  
2 the first day of the month following the month the applicant  
3 terminates employment or goes off the payroll, except for the  
4 month of December when retirement on the first or last day of  
5 the month shall be allowed."

6 SECTION 4. Section 88-79, Hawaii Revised Statutes, is  
7 amended as follows:

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

9 "(a) [~~Upon~~] Under rules the board of trustees may adopt,  
10 upon application of a member, or the person appointed by the  
11 family court as guardian of an incapacitated member, any member  
12 who has been permanently incapacitated for duty as the natural  
13 and proximate result of an accident occurring while in the  
14 actual performance of duty at some definite time and place, or  
15 as the cumulative result of some occupational hazard, through no  
16 wilful negligence on the member's part, may be retired by the  
17 [~~board~~] system for service-connected disability; provided that:

18 (1) In the case of an accident occurring after July 1,  
19 1963, the employer shall file with the system a copy  
20 of the employer's report of the accident submitted to  
21 the director of labor and industrial relations;



1           (2) An application for retirement is filed with the system  
2           within two years of the date of the accident, or the  
3           date upon which workers' compensation benefits cease,  
4           whichever is later;

5           (3) Certification is made by the head of the agency in  
6           which the member is employed, stating the time, place,  
7           and conditions of the service performed by the member  
8           resulting in the member's disability and that the  
9           disability was not the result of wilful negligence on  
10          the part of the member; and

11          (4) The medical board or other entity designated by the  
12          board of trustees certifies that the member is  
13          incapacitated for the further performance of duty at  
14          the time of application and that the member's  
15          incapacity is likely to be permanent."

16          2. By amending subsections (c), (d), and (e) to read:

17          "(c) The [~~board~~] system may waive strict compliance with  
18          the time limits within which a report of the accident and an  
19          application for service-connected disability retirement must be  
20          filed with the [~~board~~] system if it is satisfied that the  
21          failure to file within the time limited by law was due to



1 ignorance of fact or law, inability, or to the fraud,  
2 misrepresentation, or deceit of any person, or because the  
3 applicant was undergoing treatment for the disability or was  
4 receiving vocational rehabilitation services occasioned by the  
5 disability.

6 (d) The [board] system may determine whether or not the  
7 disability is the result of an accident occurring while in the  
8 actual performance of duty at some definite time and place and  
9 that the disability was not the result of wilful negligence on  
10 the part of the member. The [board] system may accept as  
11 conclusive:

12 (1) The certification made by the head of the agency in  
13 which the member is employed; or

14 (2) A finding to this effect by the medical board[-] or  
15 other entity designated by the board of trustees.

16 (e) Upon approval by the [board,] system, the member shall  
17 be eligible to receive a service-connected disability retirement  
18 benefit after the member has terminated service. Retirement  
19 shall become effective on the first day of a month, except for  
20 the month of December when retirement on the first or last day  
21 of the month shall be allowed."



1 SECTION 5. Section 88-85, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) In the case of an accidental death as determined by  
4 the [~~board~~] system pursuant to section 88-85.5, there shall be  
5 paid to the member's designated beneficiary or to the member's  
6 estate the amount of the member's accumulated contributions and  
7 there shall be paid in lieu of the ordinary death benefit  
8 payable under section 88-84, a pension of one-half of the  
9 average final compensation of the member:

- 10 (1) To the surviving spouse or reciprocal beneficiary of  
11 the member to continue until the surviving spouse or  
12 reciprocal beneficiary remarries, marries, or enters  
13 into a new reciprocal beneficiary relationship;
- 14 (2) If there be no surviving spouse or reciprocal  
15 beneficiary, or if the surviving spouse or reciprocal  
16 beneficiary dies or remarries, marries, or enters into  
17 a new reciprocal beneficiary relationship before any  
18 child of the deceased member shall have attained the  
19 age of eighteen years, then to the deceased member's  
20 child or children under the age of eighteen, divided  
21 in the manner as the [~~board~~] system in its discretion





1 shall determine, to continue as a joint and survivor  
2 pension of one-half of the deceased member's final  
3 compensation until every child dies, or attains the  
4 age of eighteen; or

5 (3) If there is no surviving spouse or reciprocal  
6 beneficiary or child under the age of eighteen years  
7 surviving the deceased member, then to the deceased  
8 member's dependent father or dependent mother, as the  
9 deceased member shall have nominated by written  
10 designation duly acknowledged and filed with the  
11 [~~board,~~] system, or if there is no nomination, then to  
12 the deceased member's dependent father or to the  
13 deceased member's dependent mother as the [~~board,~~]  
14 system, in its discretion, shall direct to continue  
15 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 SECTION 6. Section 88-85.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§88-85.5 Applications for accidental death benefits;  
2 approval by the [~~board.~~] system. (a) [~~An~~] Under rules the  
3 board of trustees may adopt, an application for service-  
4 connected accidental death benefits may be filed with the system  
5 by or on behalf of the claimant pursuant to section 88-85, 88-  
6 286, or 88-339, on a form provided by the system. The  
7 application shall be filed no later than three years from the  
8 date of the member's death.

9           (b) After the claimant files an application for service-  
10 connected accidental death benefits, the system shall obtain the  
11 following:

- 12           (1) A copy of the employer's report of the accident  
13                 submitted by the employer to the department of labor  
14                 and industrial relations, workers' compensation  
15                 division, and other reports relating to the accident;
- 16           (2) A certified statement from the head of the department  
17                 in which the deceased member was employed, stating the  
18                 date, time, and place of the accident, and the nature  
19                 of the service being performed when the accident  
20                 occurred. The statement shall also include an opinion



1 as to whether or not the accident was the result of  
2 wilful negligence on the deceased member's part;

3 (3) A copy of the latest position description of the  
4 deceased member's duties and responsibilities;

5 (4) A certified copy of the death certificate; and

6 (5) A copy of an autopsy report, if performed.

7 (c) Upon the system's receipt of the application and  
8 documents specified in subsection (b), the medical board or  
9 other entity designated by the board of trustees shall determine  
10 and certify to the [~~board~~] system whether the member's death was  
11 an accidental death as defined in section 88-21.

12 (d) The [~~board~~] system may accept as conclusive as to  
13 whether or not the member's death was caused by wilful  
14 negligence on the part of the member:

15 (1) A certification made by the head of the agency in  
16 which the member is employed; or

17 (2) A finding by the medical board[-] or other entity  
18 designated by the board of trustees.

19 (e) After the medical board or other entity designated by  
20 the board of trustees submits its certification to the system,  
21 the [~~board~~] system shall approve or disapprove the application.



1 Upon approval of an application, benefits shall be paid as  
2 provided in section 88-85, 88-286, or 88-339."

3 SECTION 7. Section 88-284, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) [~~Upon~~] Under rules the board of trustees may adopt,  
6 upon application of a member in service or on leave without pay,  
7 or the person appointed by the family court as guardian of an  
8 incapacitated member, any member who has ten or more years of  
9 credited service shall be retired by the [~~board of trustees~~]  
10 system on an ordinary disability retirement allowance if the  
11 medical board[~~7~~] or other entity designated by the board of  
12 trustees, after a medical examination of the member, certifies  
13 that:

14 (1) The member is mentally or physically incapacitated for  
15 the further performance of duty at the time of  
16 application;

17 (2) The incapacity is likely to be permanent; and

18 (3) The member should be retired.

19 (b) Upon approval by the [~~board7~~] system, the member shall  
20 be eligible to receive an ordinary disability retirement benefit  
21 no earlier than thirty days from the date the application was



1 filed or the date the member terminated service, whichever is  
2 later. Retirement shall be effective on the first day of a  
3 month, except for the month of December when retirement on the  
4 first or last day of the month shall be allowed. A member whose  
5 application for an ordinary disability retirement allowance is  
6 approved by the [~~board~~] system while the member is still in  
7 service may terminate service and retire at any time following  
8 the approval; provided that retirement shall become effective on  
9 the first day of the month following the month the applicant  
10 terminates employment or goes off the payroll, except for the  
11 month of December when retirement on the first or last day of  
12 the month shall be allowed."

13 SECTION 8. Section 88-286, Hawaii Revised Statutes, shall  
14 be amended by amending subsection (c) to read as follows:

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



- 1           (1) For the surviving spouse or reciprocal beneficiary, an  
2           allowance equal to thirty per cent of the member's  
3           average final compensation, payable until remarriage,  
4           marriage, or upon entry into a new reciprocal  
5           beneficiary relationship;
- 6           (2) If there is a surviving spouse or reciprocal  
7           beneficiary, each child under the age of eighteen  
8           shall receive an allowance equal to the greater of:
- 9           (A) Ten per cent of the member's accrued maximum  
10           retirement allowance unreduced for age; provided  
11           that the aggregate death benefits for all the  
12           children under the age of eighteen shall not  
13           exceed twenty per cent of the member's accrued  
14           maximum retirement allowance unreduced for age;  
15           or
- 16           (B) Three per cent of the member's average final  
17           compensation; provided that the aggregate death  
18           benefits for all the children under the age of  
19           eighteen shall not exceed six per cent of the  
20           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 reciprocal  
5 beneficiary, each child under the age of eighteen  
6 shall receive an allowance equal to the greater of:

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

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

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



1 SECTION 9. Section 88-334, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§88-334 Ordinary disability retirement. (a) [~~Upon~~  
4 Under rules the board of trustees may adopt, upon application of  
5 a class H member in service or on leave without pay, or the  
6 person appointed by the family court as guardian of an  
7 incapacitated member, any member who has ten or more years of  
8 credited service shall be retired by the [~~board~~] system on an  
9 ordinary disability retirement allowance if the medical board[~~7~~]  
10 or other entity designated by the board of trustees, after a  
11 medical examination of the member, certifies that:

- 12 (1) The member is mentally or physically incapacitated for  
13 the further performance of duty at the time of  
14 application;
- 15 (2) The incapacity is likely to be permanent; and
- 16 (3) The member should be retired.

17 (b) Upon approval by the [~~board~~,] system, the member shall  
18 be eligible to receive an ordinary disability retirement benefit  
19 no earlier than thirty days from the date the application was  
20 filed or the date the member terminated service, whichever is  
21 later. Retirement shall be effective on the first day of a





1 month, except for the month of December when retirement on the  
2 first or last day of the month shall be allowed. A member whose  
3 application for an ordinary disability retirement allowance is  
4 approved by the [~~board~~] system while the member is still in  
5 service may terminate service and retire at any time following  
6 the approval; provided that retirement shall become effective on  
7 the first day of the month following the month the applicant  
8 terminates employment or goes off the payroll, except for the  
9 month of December when retirement on the first or last day of  
10 the month shall be allowed."

11 SECTION 10. Section 88-336, Hawaii Revised Statutes, is  
12 amended as follows:

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

14 "(a) [~~Upon~~] Under rules the board of trustees may adopt,  
15 upon application of a class H member, or the person appointed by  
16 the family court as guardian of an incapacitated member, any  
17 class H member who has been permanently incapacitated for duty  
18 as the natural and proximate result of an accident occurring  
19 while in the actual performance of duty at some definite time  
20 and place, or as the cumulative result of some occupational  
21 hazard, through no wilful negligence on the member's part, may



1 be retired by the [~~board~~] system for service-connected  
2 disability; provided that:

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



1           2. By amending subsections (c), (d), and (e) to read:

2           "(c) The [~~board~~] system may waive strict compliance with  
3 the time limits within which a report of the accident and an  
4 application for service-connected disability retirement must be  
5 filed with the [~~board~~] system if it is satisfied that the  
6 failure to file within the time limited by law was due to  
7 ignorance of fact or law, inability, or the fraud,  
8 misrepresentation, or deceit of any person, or because the  
9 applicant was undergoing treatment for the disability, or was  
10 receiving vocational rehabilitation services occasioned by the  
11 disability.

12           (d) The [~~board~~] system may determine whether the  
13 disability is the result of an accident occurring while in the  
14 actual performance of duty at some definite time and place and  
15 that the disability was not the result of wilful negligence on  
16 the part of the member. The [~~board~~] system may accept as  
17 conclusive:

18           (1) The certification made by the head of the agency in  
19           which the member is employed; or

20           (2) A finding to this effect by the medical board[-] or  
21           other entity designated by the board of trustees.



1           (e) Upon approval by the [~~board,~~] system, the member shall  
2 be eligible to receive a service-connected disability retirement  
3 benefit after the member has terminated service. Retirement  
4 shall be effective on the first day of a month, except for the  
5 month of December when retirement on the first or last day of  
6 the month shall be allowed."

7           SECTION 11. Section 88-339, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9           "(a) [~~In~~] Under rules the board of trustees may adopt, in  
10 the case of an accidental death as determined by the [~~board~~]  
11 system pursuant to section 88-85.5, there shall be paid to the  
12 member's designated beneficiary or to the member's estate the  
13 amount of the member's accumulated contributions and there shall  
14 be paid in lieu of the ordinary death benefit payable under  
15 section 88-338 a pension of one-half of the average final  
16 compensation of the member:

17           (1) To the surviving spouse or reciprocal beneficiary of  
18           the member to continue until the surviving spouse or  
19           reciprocal beneficiary remarries, marries, or enters  
20           into a new reciprocal beneficiary relationship;



- 1           (2) If there be no surviving spouse or reciprocal  
2           beneficiary, or if the surviving spouse or reciprocal  
3           beneficiary dies or remarries, marries, or enters into  
4           a new reciprocal beneficiary relationship before any  
5           child of the deceased member shall have attained the  
6           age of eighteen years, then to the deceased member's  
7           child or children under that age, divided in a manner  
8           as the [~~board~~] system in its discretion shall  
9           determine, to continue as a joint and survivor pension  
10          of one-half of the deceased member's final  
11          compensation until every child dies, or attains that  
12          age; or
- 13          (3) If there is no surviving spouse or reciprocal  
14          beneficiary and no child under the age of eighteen  
15          years surviving the deceased member, then to the  
16          deceased member's dependent father or dependent  
17          mother, as the deceased member shall have nominated by  
18          written designation duly acknowledged and filed with  
19          the [~~board,~~] system, or if there is no nomination,  
20          then to the deceased member's dependent father or to  
21          the deceased member's dependent mother as the [~~board,~~]



1           system, in its discretion, shall direct to continue  
2           for life.

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

7           SECTION 12. Statutory material to be repealed is bracketed  
8   and stricken. New statutory material is underscored.

9           SECTION 13. This Act shall take effect on January 7, 2059.



**Report Title:**

Employees' Retirement System

**Description:**

Extends benefit finalization period for December 31 retirements; changes interest rate for late benefit finalizations; extends deadline for employer payments under section 88-100, Hawaii Revised Statutes; allows delegation of certain disability retirement and service connected death benefit approval functions. Takes effect 1/7/2059. (SD1)

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

