

JAN 24 2018

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 bill is to amend and
2 clarify provisions of chapter 88, Hawaii Revised Statutes, to
3 maintain 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(b), Hawaii Revised Statutes,
7 is amended to read as follows:

8 "§88-59 Acquisition of membership service.

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

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

16 (A) By deductions from the member's compensation
17 pursuant to section 414(h)(2) of the Internal

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1 Revenue Code of 1986, as amended, under the
2 employer pick up plan under section 88-46. An
3 irrevocable payroll authorization filed by the
4 member for a period not to exceed sixty months
5 shall remain in effect until the completion of
6 the payroll payments or termination of
7 employment, whichever is earlier. The member may
8 elect to have:

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

- 20 (B) By lump sum payment of contributions computed at
21 the contribution rate provided for in section 88-
22 45 applied to the member's monthly rate of
23 compensation at the time of payment multiplied by

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

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 88-46. 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~~
22 ~~the date the claim for service credit is made, in~~
23 ~~level twice monthly payments over the period~~

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

9 ~~(B)]~~ By lump sum payment equal to the actuarial cost
10 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 the
17 age of the member in full years as of the date the claim for
18 service credit is made, the investment yield rate assumption in
19 effect as of the date the claim for service credit is made, the
20 retirement age eligibility requirements and retirement allowance
21 provisions applicable to the member, and other actuarial
22 assumptions adopted by the board in effect as of the date the
23 claim for service credit is made.

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1 The [~~deductions from compensation or lump sum~~] payment
2 shall be paid to the system and shall be credited to the
3 member's individual account and become part of the member's
4 accumulated contributions."

5 SECTION 3. Section 88-324(b) and (c), Hawaii Revised
6 Statutes is amended to read as follows:

7 "§88-324 **Acquisition of membership service.**

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

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

13 (A) By deductions from the member's compensation
14 pursuant to section 414(h)(2) of the Internal
15 Revenue Code of 1986, as amended, under the
16 employer pick up plan under section 88-326. An
17 irrevocable payroll authorization filed by the
18 member for a period not to exceed sixty months
19 shall remain in effect until the completion of
20 the payroll payments or termination of
21 employment, whichever is earlier. The amount of
22 service credit that may be acquired pursuant to
23 this method shall not exceed the period over

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1 which the payroll payments are made. The member
2 may elect to have:

3 (i) Deductions from the member's compensation of
4 twice the contribution rate provided for in
5 section 88-325 over a period equal to the
6 period for which membership service credit
7 is allowable not to exceed sixty months; or

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

14 (B) By lump sum payment of contributions computed at
15 the contribution rate provided for in section
16 88-325 applied to the member's monthly rate of
17 compensation at the time of payment multiplied by
18 the number of months for which membership service
19 credit is allowable.

20 (2) If the [~~deductions commence or the lump sum~~] payment
21 is made after June 30, 2020:

22 ~~(A) By deductions from the member's compensation~~
23 ~~pursuant to section 414(h)(2) of the Internal~~

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1 ~~Revenue Code of 1986, as amended, under the~~
2 ~~employer pick up plan under section 88-326. An~~
3 ~~irrevocable payroll authorization filed by the~~
4 ~~member for a period not to exceed sixty months~~
5 ~~shall remain in effect until the completion of~~
6 ~~the payroll payments or termination of~~
7 ~~employment, whichever is earlier. The amount of~~
8 ~~the deductions shall be sufficient to amortize~~
9 ~~the actuarial cost of the membership service to~~
10 ~~be credited, together with interest at the~~
11 ~~investment yield rate assumption in effect as of~~
12 ~~the date the claim for service credit is made, in~~
13 ~~level twice monthly payments over the period~~
14 ~~specified in the irrevocable~~
15 ~~authorization. Service credited shall be~~
16 ~~proportional on the basis of whole months. For~~
17 ~~example, if a member elects to acquire twenty-~~
18 ~~four months of service over sixty months and~~
19 ~~terminates employment after thirty and one half~~
20 ~~months of deductions, the member will acquire~~
21 ~~twelve months of membership service credit; or~~
22 (B)] By lump sum payment equal to the actuarial cost
23 of the membership service to be credited;

1 provided that the member has at least five years
2 of membership exclusive of any previous service
3 acquired under paragraph (1) [~~or subparagraph~~
4 ~~(A)~~].

5 The actuarial cost of the membership service to be credited
6 shall be determined by the actuary for the system based on
7 the age of the member in full years as of the date the
8 claim for service credit is made, the investment yield rate
9 assumption in effect as of the date the claim for service
10 credit is made, the retirement age eligibility requirements
11 and retirement allowance provisions applicable to the
12 member, and other actuarial assumptions adopted by the
13 board in effect as of the date the claim for service is
14 made.

15 The [~~deductions from compensation or~~] lump sum payment
16 shall be paid to the system and shall be credited to the
17 member's individual account and become part of the member's
18 accumulated contributions.

19 Class H membership service credit in addition to any other
20 service credited to the member shall be allowed for the period
21 for which the [~~deductions from compensation or~~] lump sum payment
22 [~~have~~]has been made in accordance with this subsection; provided
23 that payment shall commence within one year after the system

1 notifies the member that the service claimed has been verified
2 and that service credit is allowable; provided further that, for
3 a member who becomes a member after June 30, 2016: membership
4 service credit for prior service or for service rendered prior
5 to the member's last becoming a member shall be claimed within
6 one year after the member enters service; membership service
7 credit for military service pursuant to section 88-132.5 shall
8 be claimed within one year after the member meets the
9 requirements of section 88-132.5(a) or (b); and any other
10 membership service credit acquired pursuant to this section
11 shall be claimed within one year after the member becomes
12 eligible to receive the service credit upon satisfaction of the
13 requirements of this section.

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

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

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

1 employer pick up plan under section 88-326. 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 amount of
7 service credit that may be acquired pursuant to
8 this method shall not exceed the period over
9 which the payroll payments are made. The member
10 may elect to have:

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

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

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1 (B) By lump sum payment of contributions computed at
2 the contribution rate applicable to the member
3 under section 88-45 as of June 30, 2006, applied
4 to the member's monthly rate of compensation at
5 the time of payment, multiplied by the number of
6 months for which membership service credit is
7 allowable.

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~~
22 ~~investment yield rate assumption in effect as of~~
23 ~~the date the claim for service credit is made, in~~

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

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

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

1 board in effect as of the date the claim for service is
2 made.

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

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

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1 receive the service credit upon satisfaction of the requirements
2 of this section."

3 SECTION 4. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: 

6

BY REQUEST

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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.

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

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To amend and clarify provisions of chapter 88, Hawaii Revised Statutes, to maintain the status of the Employees' Retirement System as a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code.

MEANS: Amend sections 88-59(b) and 88-324(b) and (c), Hawaii Revised Statutes.

JUSTIFICATION: The Employees' Retirement System of the State of Hawaii ("ERS") is intended to be a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code. The following amendments to chapter 88, Hawaii Revised Statutes, are to correct the method of purchasing additional membership service credit by pre-tax contributions 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 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. As 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.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.