

MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM  
OF THE STATE OF HAWAII

JULY 12, 2021

CITY FINANCIAL TOWER  
201 MERCHANT STREET, SUITE 1200  
HONOLULU, HAWAII 96813

Trustees present: Mr. Emmit Kane, Chair  
(by teleconference) Mr. Jerome Rauckhorst, Vice Chair (in person)  
Mr. Vincent Barfield (in person)  
Mr. Craig Hirai  
Dr. Genevieve Ley  
Mr. Bennett Yap

Trustees absent: Dr. Catherine Chan

Staff present: Mr. Thomas Williams, Executive Director  
(City Financial tower Ms. Kanoë Margol, Deputy Executive Director  
by teleconference) Ms. Donna Curry, Program Specialist  
Mr. Bart Asato, Program Specialist  
Ms. Shanna Sakagawa, Program Specialist  
Mr. Karl Kaneshiro, Retirement Benefits Manager  
Ms. Lori Kobayashi, General Professional  
Ms. Elizabeth Burton, Chief Investment Officer  
Mr. Howard Hodel, Deputy Chief Investment Officer  
Mr. Aaron Au, Investment Officer – Illiquid Markets  
Mr. Anthony Goo, Investment Officer – Liquid Markets  
Mr. David Okamoto, Investment Officer – Credit Markets  
Mr. Ian Wetzel, Investment Officer – Real Assets  
Mr. Andrew Chen, Investment Specialist  
Ms. Gerri Konishi, Member Home Loan Assistant (audio only)  
Ms. Diana Gomes, Secretary  
Ms. Dale Kehau Kanae, Recording Secretary  
Ms. Lori Kim, Secretary

Attorneys present: Mr. Ivan Torigoe, Deputy Attorney General  
(by teleconference) Ms. Elmira Tsang, Deputy Attorney General  
Ms. Diane Wong, Deputy Attorney General

Guests present: Mr. Colin Bebee, Meketa Investment Group, Inc.  
(by teleconference)

Public present: Mr. Michael Bowman, MCAB  
(by teleconference) Mr. Dane Wicker, Staff, State Senate

QUORUM/CALL TO ORDER

A quorum being present (Chair Kane, Vice Chair Rauckhorst, Trustees Barfield, Hirai, Ley, and Yap), Chair Kane called the regular meeting of the Board of Trustees (Board) of the Employees' Retirement System of the State of Hawaii (ERS) to order at 9:00 a.m.

On a motion made by Trustee Ley, seconded by Trustee Yap, and unanimously carried, to be able to hold a meeting closed to the public and allow Trustees to participate by teleconference or other remote meeting technology, pursuant to the Governor of the State of Hawaii's Twenty-First Proclamation Related to the COVID-19 Emergency, dated June 7, 2021, in order to implement social distancing measures.

## PUBLIC COMMENT

Chair Kane called for public comment. There were two (2) members of the public present by teleconference, however, none of the public present had any comments. There was also no public written testimony received for this meeting.

Chair Kane discussed with the Board that Governor Ige recently identified two replacements, one for the vacancy of Trustee Machida and the other for Vice Chair Rauckhorst on holdover status. Chair Kane, Trustee Barfield, and Trustee Ley thanked Vice Chair Rauckhorst, on behalf of the Board, for his many years of dedicated service and shared their experiences while serving with and appreciation of Vice Chair Rauckhorst. Executive Director (ED) Thomas Williams also thanked Vice Chair Rauckhorst for his many years of service to the ERS and echoed the sentiments shared. Vice Chair Rauckhorst expressed his gratitude and admiration to the Board and ERS and shared how much he enjoyed the experience while serving on the Board. He also told his story of how he was appointed to the Board by then Governor Linda Lingle.

ED Williams announced that a more formal recognition for Vice Chair Rauckhorst will be done in either August or September.

## EXECUTIVE DIRECTOR'S REPORT

ED Williams gave an oral presentation of his report to the Board as follows:

- Trustee Machida elected to resign from the ERS Board.
- Two Trustee vacancies appointed by the Governor are to be filled by Mr. Kalbert Young of the University of Hawaii, a former Budget & Finance (B&F) Director and Trustee, and Lance Mizumoto of the First Hawaiian Bank.
- Chair Kane will discuss assignments to the Board Committees.
- Mr. Harris Chin, a student intern, will be working in the Investment Office starting today.
- During the budget process B&F lost three positions, a Secretary II, Accountant III, and IT Band B and this could impact the timeliness of requests from ERS.
- Effective July 1, 2021, the Governor appointed Ms. Gloria Chang from First Hawaiian Bank as the new B&F Deputy Director.
- Discussed with B&F Director/Trustee Craig Hirai state travel restrictions, preference of attending virtual conferences, and travel approval delegated has been rescinded from B&F to the ERS Board. All travel must now be approved by B&F.
- Governor's emergency telework order concludes on August 6, 2021, and ERS employees will return to work, however, alternate work week and flexible work schedules will be ongoing. Permanent telework will be eligible for a select number of staff.
- We continue to pursue more laptops and VPN to support disaster recovery and business continuity in response to an emergency.
- On June 22, 2021, U.S. District Judge William Alsup appointed Pomerantz LLP as lead counsel in the Wells Fargo Securities Litigation on behalf of the ERS.
- A cyber security presentation to the Board will be provided by the IS staff and the State Chief Information Officer in September.
- IS staff is conducting phishing tests within ERS and will continue to conduct them periodically. Staff are reminded and requested to follow proper protocols.
- An appeal by Preqin to allow access to confidential ERS investment information was denied by the Office of Information Practices. Also, Act 71 signed into law by Governor Ige allows ERS to avoid disclosure of investment information which will also reduce the number of required responses to requests from commercial entities to our investment office.
- Trustees are all enrolled and have access to the Council of Institutional

- Investors that educates members about best corporate governance practices.
- A travel policy relating to COVID-19 for State employees returning from out-of-state travel has been issued by the State Comptroller relating to business and personal travel. Employees must receive approval by their department director prior to returning to the workplace.
- An employer briefing is planned for July 27, 2021, relating to Act 87/2015, of the employer reporting requirements.

DEPUTY EXECUTIVE  
DIRECTOR'S OPERATIONS  
REPORT

Deputy Executive Director (DED) Margol gave updates to ERS staffing and projects of Administration, Accounting, Information Services, Retirement Benefits and Staff Support Services Branches as presented in the June 2021 Monthly Operations Report.

DISCUSSION OF 2021  
COMMITTEE  
ASSIGNMENTS

Before Chair Kane discussed the proposed Committee Assignments with the Board, he asked ED Williams when the appointments for Lance Mizumoto and Kalbert Young would become effective. ED Williams reported that Mr. Mizumoto will be sworn in and sign the Oath of Office within the week, however, Mr. Young would become effective on July 17, 2021. ED Williams and Deputy Attorney General (DAG) Ivan Torigoe shared with the Board that appointments can begin even if the Legislature is not in session and has not confirmed their appointments.

Chair Kane mentioned, and Vice Chair Rauckhorst confirmed, that the Compensation Review Committee has one more meeting to be held in August relating to compensation and evaluation of competitive compensation. The next steps, however, are documented in the timeline and minutes of the meetings and should not be a problem to continue. Based upon that information, Chair Kane requested that the proposed changes be deferred until both appointments have been made, however until such time, requested that he be added to the Compensation Review Committee due to the departures of both Trustees Machida and Rauckhorst from that Committee.

On a motion made by Vice Chair Rauckhorst, seconded by Trustee Ley, and unanimously carried, the Board approved the addition of Chair Kane to the Compensation Review Committee, and concurred with the deferral of further changes to the Committee assignments until both appointees are officially on board.

Chair Kane then discussed quorum within the Committees and whether or not three members and an alternate or four members would comprise a Committee, with two members establishing quorum.

After discussion, on a motion made by Trustee Ley, seconded by Trustee Barfield, and unanimously carried, the Board approved establishing three members and one alternate for a Committee, with two members establishing quorum.

Chair Kane requested DAG Torigoe work on language as it relates to quorum within the Committee Charters.

(Trustee Hirai left the meeting at 10:09 a.m. by ending his teleconference.)

REPORTS BY  
ADMINISTRATIVE &  
AUDIT COMMITTEE

Administrative & Audit Committee (Committee) Chair Ley reported that at the last Committee meeting of July 1, 2021, the following was discussed and accepted and is being presented for acceptance and approval by the Board.

PROPOSED REVISIONS TO  
FORMS FOR HAWAII  
DOMESTIC RELATIONS  
ORDERS, PRE-RETIREMENT

Program Specialist (PS) Donna Curry presented the proposed revisions to Forms for the Hawaii Domestic Relations Orders.

On a motion made by Committee Chair Ley, seconded by Committee Vice Chair

(FORM ERS-300) AND POST-RETIREMENT (FORM ERS-301).

REVIEW OF UPDATED AMENDMENTS TO HAWAII ADMINISTRATIVE RULES (HAR) TITLE 6, HAR CHAPTER 6-21, TO ADDRESS DETERMINATION OF SERVICE CREDIT FOR FRACTIONAL MONTHS OF EMPLOYMENT TO BE BASED ON EMPLOYEE EARNED PAY PER MONTH, AND FOR TEACHERS PAID ON CURRENT OFFICIAL SCHOOL SCHEDULES; ESTABLISHMENT OF FULL-TIME EQUIVALENCE FOR ELIGIBLE PART-TIME EMPLOYEES; CONVERSION OF SICK LEAVE CREDITS WHEN MEMBER REIRES OR TERMINATES IN GOOD STANDING; TYPOGRAPHICAL CORRECTIONS.

TRUSTEE ELECTION UPDATE

REPORTES BY COMPENSATION REVIEW, GOVERNANCE POLICY, INVESTMENT AND KAAPALI AD HOC, AND LEGISLATIVE COMMITTEES

Yap, and unanimously carried, the Board approved revisions to the forms for the Hawaii Domestic Relations Orders, Pre-Retirement (Form ERS-300) and Post-Retirement (Form ERS-301). (The revised forms are attached for clarification.)

PS Curry also presented the updated amendments to the Hawaii Administrative Rules (HAR) Title 6, HAR Chapter 6-21,

On a motion made by Committee Chair Ley, seconded by Committee Vice Chair Yap, and unanimously carried, the Board approved the updated amendments to Hawaii Administrative Rules (HAR) Title 6, HAR Chapter 6-21 as presented. (The Amendment is attached for clarification.)

DED Margol reported that this agenda item was discussed in her Operations Report to the Board.

**Compensation Review Committee** (Committee) Chair Rauckhorst stated that there was no Committee meeting held and nothing to report, however, there should be a meeting scheduled for August.

**Governance Policy Committee** (Committee) Chair Kane stated that the Committee did not meet, however, due to the changes in the Committee Assignments and quorum discussion, language for the Charters will be provided for discussion and approval at the next Committee meeting.

**Investment and KAAPALI Ad Hoc Committees** (Committee) Chair Barfield reported to the Board that there were no new updates on KAAPALI, however, the Committee met on June 28, 2021, and reviewed and approved the Investment Policy revisions and discussed the allocation ranges going forward. Reviewed the standard report on Investment Office activities, covered executive session items on manager pipeline updates and organizational changes, and an update from a diversified strategies manager on their management of funds and potential market opportunities.

**Legislative Committee** (Committee) Vice Chair Yap reported that no Committee meeting was held and there was nothing new to report, however, PS Curry provided an update on three ERS-related legislation that was approved by the Legislature and signed by the Governor effective June 24, 2021: Act 70/SLH 2021, HB 929, SD1 – HiDRO Amendment; Act 71/SLH 2021, HB930, CD1 – Investment Records Exemption; and Act 84/SLH 2021, HB 670, SD2 – Felony Forfeiture.

ENTER EXECUTIVE  
SESSION

On a motion made by Trustee Ley, seconded by Trustee Barfield and unanimously carried, the Board entered into Executive Session at 10:20 a.m.

(Public participation concluded by ending the teleconference link.)

EXECUTIVE SESSION

- Pursuant to HRS § 92-5 (a)(4) and (8), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, and privileges, immunities, and liabilities with respect to a request relating consideration of a potential claim and for appropriate action upon a matter that requires the consideration of information that must be kept confidential pursuant to HRS § 92F-13(1) and (4), § 92F-14(b) (6), and Hawaii State Constitution, Article 1, Section 6.
- Pursuant to HRS § 92-5(a)(4), to consult with the Board's attorneys on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities, and status with respect to Employees' Retirement System Securities Litigation; appropriate action.
- Pursuant to HRS § 92-5(a)(2) and (4), to evaluate the performance of duties and compensation of Employees' Retirement System's personnel, where matters affecting privacy will be involved, and to consult with the Board's attorneys on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to a Discussion and Establishment of Criteria and/or Policy Applicable to Exempt Employee Outside Compensation or Board Appointments.

EXECUTIVE SESSION,  
PURSUANT TO HRS § 92-  
5(a)(4) AND (8), TO CONSULT  
WITH THE BOARD'S  
ATTORNEY ON QUESTIONS  
AND ISSUES PERTAINING TO  
THE BOARD'S POWERS,  
DUTIES, AND PRIVILEGES,  
IMMUNITIES, AND  
LIABILITIES WITH RESPECT  
TO A REQUEST RELATING  
CONSIDERATION OF A  
POTENTIAL CLAIM AND FOR  
APPROPRIATE ACTION UPON  
A MATTER THAT REQUIRES  
THE CONSIDERATION OF  
INFORMATION THAT MUST  
BE KEPT CONFIDENTIAL  
PURSUANT TO HRS § 92F-  
13(1) AND (4), § 92F-14(B) (6),  
AND HAWAII STATE  
CONSTITUTION, ARTICLE 1,  
SECTION 6

EXECUTIVE SESSION,  
PURSUANT TO HRS § 92-  
5(a)(4), TO CONSULT WITH  
THE BOARD'S ATTORNEYS  
ON QUESTIONS AND ISSUES  
PERTAINING TO THE  
BOARD'S POWERS, DUTIES,  
PRIVILEGES, IMMUNITIES  
AND LIABILITIES, AND  
STATUS WITH RESPECT TO  
EMPLOYEES' RETIREMENT  
SYSTEM SECURITIES  
LITIGATION; APPROPRIATE  
ACTION

EXECUTIVE SESSION,  
PURSUANT TO HRS § 92-

5(a)(2) AND (4), TO  
EVALUATE THE  
PERFORMANCE OF DUTIES  
AND COMPENSATION OF  
EMPLOYEES' RETIREMENT  
SYSTEM'S PERSONNEL,  
WHERE MATTERS  
AFFECTING PRIVACY WILL  
BE INVOLVED, AND TO  
CONSULT WITH THE  
BOARD'S ATTORNEYS ON  
QUESTIONS AND ISSUES  
PERTAINING TO THE  
BOARD'S POWERS, DUTIES,  
PRIVILEGES, IMMUNITIES,  
AND LIABILITIES WITH  
RESPECT TO A DISCUSSION  
AND ESTABLISHMENT OF  
CRITERIA AND/OR POLICY  
APPLICABLE TO EXEMPT  
EMPLOYEE OUTSIDE  
COMPENSATION OR BOARD  
APPOINTMENTS.

APPROVAL OF EXECUTIVE  
SESSION MINUTES  
– JUNE 14, 2021

EXIT EXECUTIVE SESSION

On a motion made by Trustee Barfield, seconded by Vice Chair Rauckhorst, and unanimously carried, the Board exited Executive Session at 11:02 a.m.

APPROVAL OF MINUTES  
– JUNE 14, 2021

On a motion made by Trustee Barfield, seconded by Trustee Ley, and unanimously carried, the Board approved the Minutes of June 14, 2021, as presented.

ADJOURNMENT

On a motion made by Vice Chair Rauckhorst, seconded by Trustee Yap, and unanimously carried, Chair Kane adjourned the meeting at 11:03 a.m.

**REDACTED SIGNATURE**

Thomas Williams  
Executive Director

TW:dkik

This document is prepared by:

Attorney for  Plaintiff  Defendant

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

STATE OF HAWAI'I

FAMILY COURT

\_\_\_\_\_ CIRCUIT

_____ (Name),	)	FC-D No. _____
Plaintiff	)	
	)	HAWAII DOMESTIC RELATIONS
v.	)	ORDER FOR THE EMPLOYEES'
	)	RETIREMENT SYSTEM OF THE STATE
_____ (Name),	)	OF HAWAII ( <b>PRE-RETIREMENT</b> )
Defendant	)	
	)	Judge: _____
	)	Hearing date: _____
	)	

HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (**PRE-RETIREMENT**)

A hearing was held before the Presiding Judge or ~~an affidavit was submitted and~~ the Court waived hearing on the matter. After full consideration of the evidence,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" ("HiDRO") relating to the Employees' Retirement System of the State of Hawaii ("ERS" or "System"), as set forth in Section 88-93.5 of the Hawai'i Revised Statutes ("HRS"), as revised, and Sections 6-40-1, et seq., of the Hawai'i Administrative Rules ("HAR"), and upon determination by the Employees' Retirement System of the State of Hawaii ("ERS" or "System") that this Order meets the requirements for a HiDRO, this Order shall supersede and replace all prior orders between the same parties intended to meet or meeting the requirements for a HiDRO. This Order is an integral part of the Decree of Divorce ~~signed and~~ filed by the court on \_\_\_\_\_ (date),  (check if post decree orders/stipulations apply) and the \_\_\_\_\_ (name of post decree order/stipulation) ~~signed and~~ filed by the court on \_\_\_\_\_

\_\_\_\_\_ (date). This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" relating to the Employees' Retirement System of the State of Hawaii ("ERS" or "System"), as set forth in Section 88-93.5 of the Hawai'i Revised Statutes ("HRS"), as revised, and Sections 6-40-1, et seq., of the Hawai'i Administrative Rules ("HAR"). This Order is an integral part of the Decree of Divorce signed on \_\_\_\_\_ (date).

2. ~~a.~~ This Order creates or recognizes the right of ~~the an~~ alternate payee identified in Paragraph 4 below ("Alternate Payee"), or assigns to the ~~A~~alternate ~~P~~payee, ~~the right~~ to receive a portion of the benefits payable with respect to ~~a the~~ member, a former member with vested benefit status, or retirant identified in Paragraph 3 below (herein after referred as "Member") under the System.

~~b. This Order supersedes and terminates all prior Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii between the same parties, creating or recognizing the right of the Alternate Payee to receive a portion of the benefits payable with respect to the Member.~~

3. The MEMBER of the System is:

Plaintiff  Defendant (check one)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Social Security Number: \_\_\_\_\_

xxx - xx - \_\_\_\_\_

Employer: \_\_\_\_\_

Employer's Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. The ALTERNATE PAYEE (spouse or former spouse) is:

Plaintiff  Defendant (check one)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Social Security Number: \_\_\_\_\_

~~xxxXXX~~ - ~~xxXX~~ - \_\_\_\_\_

5. Member and Alternate Payee were married on \_\_\_\_\_ (date).

6. **RETIREMENT BENEFITS.** As part of the division of the property of the parties, the Alternate Payee is awarded a portion of retirement benefits made by the System pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336, if and at the time the retirement benefits become payable to the Member, as provided by and subject to the System's governing laws and rules, and Paragraphs 8 and 9 below.



**A. Monthly Retirement Allowance.** The Alternate Payee's portion of the Member's monthly retirement allowance under the retirement allowance payment option elected by the Member and remaining after payments required to be paid to other alternate payees pursuant to earlier ~~Hawaii domestic relations order~~HiDROs, shall be (check one):

1. A percentage determined by the following formula:

$$\frac{\text{Months of service credits the } \del{system} \u{System} \text{ determines has been credited to the Member from } \underline{\hspace{2cm}} \text{ (date of marriage)} \text{ through } \underline{\hspace{2cm}} \text{ (date of divorce)}}{\text{Total months of service credit the } \del{system} \u{System} \text{ determines has been credited to the Member upon retirement}} \times \text{ (fractional marital property interest) \%}$$

2. \_\_\_\_\_ (numerical percentage) %.

3. \$\_\_\_\_\_ (numerical dollar amount), or the total distribution payable to the Member, whichever is less.

4. None.

**B. Refund of Accumulated Contributions.** The Alternate Payee's portion of the Member's refund of accumulated contributions under the retirement allowance option providing for the refund of accumulated contributions elected by the Member, if any, and remaining after payments required to be paid to other alternate payees pursuant to earlier ~~Hawaii domestic relations order~~HiDROs, shall be (check one):

1. A percentage determined by the following formula:

$$\frac{\text{Months of service credits the } \del{system} \u{System} \text{ determines has been credited to the Member from } \underline{\hspace{2cm}} \text{ (date of marriage)} \text{ through } \underline{\hspace{2cm}} \text{ (date of divorce)}}{\text{Total months of service credit the } \del{system} \u{System} \text{ determines has been credited to the Member upon retirement}} \times \text{ (fractional marital property interest) \%}$$

marital X  
property interest) Total months of service credit the ~~system~~System determines has been credited to the Member upon retirement

- 2. \_\_\_\_\_ (numerical percentage) %.
- 3. \$\_\_\_\_\_ (numerical dollar amount), or the total distribution payable to the Member, whichever is less.
- 4. None.

**C. Commencement and Termination of Payment.** Payments to the Alternate Payee shall be effective as of the same date that benefit payments are available to the Member. Payments of the portion awarded to the Alternate Payee, subject to Paragraphs 6(D), 7, 8 and 9 below, shall terminate upon the death of the Retirant, or upon the death of the Alternate Payee, whichever is earlier.

**D. Payment Upon the Death of the Retirant or Alternate Payee.** When the ~~system~~System receives a certified copy of this Order prior to the Retirant's retirement, and if this Order is determined to be a ~~Hawaii domestic relations order~~HiDRO, the portion awarded to the Alternate Payee by the Order shall be paid as a portion of the retirement benefit the Retirant is receiving pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336 as follows:

1. If the alternate payee will be named beneficiary under any option elected by the Retirant at retirement, upon the death of the Retirant or the alternate payee, the benefit amount to be paid to the survivor shall be the amount required under the option elected by the Retirant at retirement, as though no ~~Hawaii domestic relations order~~HiDRO had existed; or
2. If the alternate payee will not be a named beneficiary under the option elected by the Retirant at retirement, and the Retirant predeceases the alternate payee, payments to the alternate payee shall cease and payments to the Retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the Retirant at retirement, as though no ~~Hawaii domestic relations order~~HiDRO had existed. If the alternate payee will not be a named beneficiary under the option elected by the Retirant at retirement, and the alternate payee predeceases the Retirant, the benefit then being paid to the Retirant shall be increased by the amount of the benefit that was being paid to the alternate payee at time of death.

**7. TERMINATION DISTRIBUTIONS.** As part of the division of the property of the parties, the Alternate Payee is awarded a portion of the distribution of accumulated contributions

and/or hypothetical account balances made by the System pursuant to HRS §§ 88-96 and/or 88-341, if and at the time they are withdrawn by the Member as provided by and subject to the System’s governing laws and rules, and subject to Paragraphs 8 and 9 below. The Alternate Payee’s portion of the Member’s distribution of accumulated contributions and/or hypothetical account balances, if any, remaining after payments required to be paid to other alternate payees pursuant to earlier ~~Hawaii domestic relations order~~HiDROs, shall be (check one):

A. A percentage determined by the following formula:

$$\begin{array}{r}
 \frac{\text{Months of service credits the } \del{\text{system}}\text{System} \text{ determines} \\
 \text{has been credited to the Member from} \\
 \text{_____ (date of} \\
 \text{marriage) through _____ (date} \\
 \text{of divorce)}}{\text{Total months of service credit the } \del{\text{system}}\text{System} \\
 \text{determines has been credited to the Member upon} \\
 \text{termination of membership}} \\
 \times \text{ (fractional marital property interest) \%}
 \end{array}$$

B. \_\_\_\_\_ (numerical percentage) %.

C. \$ \_\_\_\_\_ (numerical dollar amount), or the total distribution payable to the Member, whichever is less.

D. None.

When the System receives a certified copy of this Order prior to the Member’s termination of membership, if this Order is determined to be a ~~Hawaii domestic relations order~~HiDRO, and if the Member terminates membership in the System by withdrawal of contributions and/or hypothetical account balance pursuant to HRS §§ 88-96 and/or 88-341, the System, except as provided in Paragraphs 8 and 9 below, shall pay the Alternate Payee at the time contributions and/or hypothetical account balance are withdrawn, the portion that is awarded to the Alternate Payee in the form of a lump sum.

**8.** When the System has not yet begun to make payment to the Alternate Payee under this Order and is provided with proof of the death of the Alternate Payee, benefits payable with respect to the Member shall be paid without regard to this Order.

**9.** If the Member retires or withdraws accumulated contributions and/or hypothetical account balances after this Order is determined to be a ~~Hawaii domestic relations order~~HiDRO, and subsequently returns to employment requiring active membership in the ~~system~~System:

A. Payments to the Alternate Payee pursuant to the Order shall not be suspended; and

- B. The System shall pay to the Alternate Payee no portion of any benefits payable to the Member that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during marriage.

**10.** Any amount payable by the ERS, other than those payable to the Alternate Payee under Paragraphs 6 and 7 above, shall be payable directly to the Member, the Member's beneficiaries, or the estate, heirs, or legatees of either, in accordance with the System's laws and rules. If the Member, or the beneficiary or estate of either, receives the amount of any distribution that has been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If the Alternate Payee, or the estate, heirs, or legatees of the Alternate Payee receive any amount of a distribution that has not been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the Member, or other person to whom the amount should have been paid. If the Member, Member's beneficiary, Alternate Payee, or their estate, heirs, or legatees, receives any amount that should not have been paid by the System, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the System.

**11.** The Alternate Payee is ordered to report any payments received from the System on any applicable income tax return in accordance with the Internal Revenue Code provisions or regulations in effect at the time any payments are issued by the ERS. The System is authorized to issue a Form 1099R, or other applicable form on any direct payment made to the Alternate Payee.

**12.** The Alternate Payee is ordered to provide the System with prompt notification of any changes in the Alternate Payee's direct deposit and mailing address. The System shall not be liable for failing to make payments to the Alternate Payee if the System does not have current direct deposit information for the Alternate Payee at the time of payment. Nor is the System liable for the non-receipt of a Form 1099R if the ERS does not have current mailing address information at the time of issue.

**13.** The Member or the Alternate Payee shall furnish an original certified copy of this Order to the ERS. The Order is not a qualified ~~Hawaii domestic relations order~~ [HiDRO](#) until an original copy is received by the ERS and is thereafter so deemed pursuant to HRS § 88-93.5, as revised, and HAR § 6-40-1, et seq.

**14.** This Order shall not be interpreted in any way to:

- A. Require the designation by the Member of a particular person as the recipient of benefits upon the death of the Member;
- B. Require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the Member may select;

- C. Require any action on the part of the System contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the Alternate Payee;
- D. Award the Alternate Payee an interest that is contingent on any condition other than those conditions resulting in the liability of the System for payment under its plan provisions;
- E. Give to someone other than the Member the right to designate a beneficiary or to choose any retirement plan or option available from the ~~system~~System;
- F. Attach a lien to any part of amounts payable with respect to the Member;
- G. Require the System to make a lump sum payment of the awarded portion of the benefits to the Alternate Payee that are not otherwise payable in a lump sum;
- H. Require the System to terminate the Member from membership or employment, to refund contributions, or to retire the Member;
- I. Provide any type or form of benefit, or any option, not otherwise provided by the System;
- J. Provide increased benefits, determined on the basis of actuarial value; or
- K. Require the ~~system~~System to provide benefits or refunds to the Alternate Payee that are required to be paid to ~~another alternate payee~~s pursuant to ~~an earlier Hawaii domestic relations order~~HiDROs.

**15.** This Court does not have jurisdiction over the System with respect to this divorce action, and the System shall not and has not been made a party to this divorce action and any other judicial proceeding herein. A determination by the System that this Order is not a ~~Hawaii domestic relations order~~HiDRO shall be subject to review as provided in HRS chapter 91, and the System's rules relating to contested cases. Any party to this divorce action who attempts to make the System a party to this divorce action shall be liable to the System for the System's costs and attorneys' fees, including attorneys' fees and costs for obtaining a dismissal.

**16.** The Court retains jurisdiction to amend this Order so that it will constitute a qualified ~~Hawaii Domestic Relations Order~~HiDRO under the System's governing laws and rules even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System determines at any time that changes in the law, the administration of the System, or any other circumstances make it impossible to calculate the portion of a distribution awarded to the Alternate Payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.



This document is prepared by:

Attorney for  Plaintiff  Defendant

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

STATE OF HAWAII  
FAMILY COURT

\_\_\_\_\_ CIRCUIT

STATE OF HAWAII

_____ (Name),	)	FC-D No. _____
Plaintiff	)	
	)	HAWAII DOMESTIC RELATIONS
v.	)	ORDER FOR THE EMPLOYEES'
	)	RETIREMENT SYSTEM OF THE STATE
_____ (Name),	)	OF HAWAII ( <b>POST-RETIREMENT</b> )
Defendant	)	
	)	Judge: _____
	)	Hearing date: _____
	)	

HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (POST-RETIREMENT)

A hearing was held before the Presiding Judge or ~~an affidavit was submitted and~~ the Court waived hearing on the matter. After full consideration of the evidence,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" ("HiDRO") relating to the Employees' Retirement System of the State of Hawaii ("ERS" or "System"), as set forth in Section 88-93.5 of the Hawai'i Revised Statutes ("HRS"), as revised, and Sections 6-40-1, et seq., of the Hawai'i Administrative Rules ("HAR"), and upon determination by the Employees' Retirement System of the State of Hawaii ("ERS" or "System") that this Order meets the requirements for a HiDRO, this Order shall supersede and replace all prior orders between the same parties intended to meet or meeting the requirements for a HiDRO. This Order is an integral part of the Decree of Divorce ~~signed and~~ filed by the court on \_\_\_\_\_ (date),  (check if post decree orders/stipulations apply) and the

\_\_\_\_\_ (name of

~~post decree order/stipulation) signed and filed by the court on \_\_\_\_\_ (date). This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" relating to the Employees' Retirement System of the State of Hawaii ("ERS" or "System"), as set forth in Section 88-93.5 of the Hawaii Revised Statutes ("HRS"), as revised, and Sections 6-40-1, et seq., of the Hawaii Administrative Rules ("HAR"). This Order is an integral part of the Decree of Divorce signed on \_\_\_\_\_ (date).~~

2. ~~a.~~ This Order creates or recognizes the right of ~~an the A~~alternate ~~P~~payee identified in Paragraph 4 below ("Alternate Payee"), or assigns to the ~~A~~alternate ~~P~~payee, ~~the right~~ to receive a portion of the benefits payable with respect to ~~thea~~ member or retirant identified in Paragraph 3 below ("Member") under the System ("Retirant").

~~b. This Order supersedes and terminates all prior Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii between the same parties, creating or recognizing the right of the Alternate Payee to receive a portion of the benefits payable with respect to the Retirant.~~

3. The RETIRANT of the System is:

Plaintiff  Defendant (check one)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Social Security Number: \_\_\_\_\_

xxx - xx - \_\_\_\_\_

Former Employer: \_\_\_\_\_

Former Employer's Address: \_\_\_\_\_

4. The ALTERNATE PAYEE (spouse or former spouse) is:

Plaintiff  Defendant (check one)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Social Security Number: \_\_\_\_\_

xxx - xx - \_\_\_\_\_

5. Retirant and Alternate Payee were married on \_\_\_\_\_ (date).

6. **RETIREMENT BENEFITS.** As part of the division of the property of the parties, the Alternate Payee is awarded a portion of each distribution of retirement benefits made by the System pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336, if and at the time the retirement benefits become payable to the Retirant, as provided by and subject to the System's governing laws and rules, and Paragraphs 7, 8 and 9 below. The Alternate Payee's portion of the Retirant's monthly retirement allowance under the retirement



allowance payment option elected by the Retirant and remaining after payments required to be paid to other alternate payees pursuant to earlier ~~Hawaii domestic relations order~~ HiDROs, shall be (check one):

A. A percentage determined by the following formula:

$$\frac{\text{_____ \%}}{\text{(fractional marital property interest)}} \times \frac{\text{Months of service credits the } \underline{\text{systemSystem}} \text{ determines has been credited to the Retirant from } \text{_____ (date of marriage) through } \text{_____ (date of divorce)}}{\text{Total months of service credit the } \underline{\text{systemSystem}} \text{ determines has been credited to the Retirant upon retirement}}$$

B. \_\_\_\_\_ (numerical percentage) %.

C. \$ \_\_\_\_\_ (numerical dollar amount), or the total distribution payable to the Retirant, whichever is less.

D. None.

Payments to the Alternate Payee, subject to Paragraphs 7, 8 and 9 below, shall commence as of the first day of the month following the date upon which the Order is determined to be a ~~Hawaii domestic relations order~~ HiDRO. Payments to the Alternate Payee, subject to Paragraphs 7, 8 and 9 below, shall terminate upon the death of the Retirant, or upon the death of the Alternate Payee, whichever is earlier.

7. When the systemSystem receives a certified copy of this Order subsequent to the Retirant's retirement, and if this Order is determined to be a ~~Hawaii domestic relations order~~ HiDRO, the portion awarded to the Alternate Payee by the Order shall be paid as a portion of the retirement benefit the Retirant is receiving pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336 as follows:

A. If the Alternate Payee is already a named beneficiary under any option elected by the Retirant at retirement, the benefit to which the Retirant is entitled, without regard to the Order, shall be apportioned between the Retirant and the Alternate Payee according to the terms of the Order. Upon the death of the Retirant or the Alternate Payee, the benefit amount to be paid to the survivor shall be the amount required under the option elected by the Retirant at retirement, as though this Order had not existed; or

- B. If the Alternate Payee is not a named beneficiary under the option elected by the Retirant at retirement, the benefit to which the Retirant is entitled without regard to the Order, shall be apportioned between the Retirant and the Alternate Payee according to the terms of the Order. If the Retirant predeceases the Alternate Payee, payments to the Alternate Payee shall cease and payments to the Retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the Retirant at retirement, as though this Order had not existed. If the Alternate Payee predeceases the Retirant, the benefit then being paid to the Retirant shall be increased by the amount of the benefit that was being paid to the Alternate Payee at time of death.
- 8.** When the System has not yet begun to make payment to the Alternate Payee under this Order and is provided with proof of the death of the Alternate Payee, benefits payable with respect to the Member shall be paid without regard to this Order.
- 9.** If the Retirant returns to employment requiring active membership in the ~~system~~System:
- A. Payments to the Alternate Payee pursuant to the Order shall not be suspended; and
- B. The System shall pay to the Alternate Payee no portion of any benefits payable to the Retirant that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during marriage.
- 10.** Any amount payable by the ERS, other than those payable to the Alternate Payee under Paragraph 6 above, shall be payable directly to the Retirant, the Retirant's beneficiaries, or the estate, heirs, or legatees of either, in accordance with the System's laws and rules. If the Retirant, or the beneficiary or estate of either, receives the amount of any distribution that has been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If the Alternate Payee, or the estate, heirs, or legatees of the Alternate Payee receive any amount of a distribution that has not been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the Retirant or other person to whom the amount should have been paid. If the Retirant, Retirant's beneficiary, Alternate Payee, or their estate, heirs, or legatees, receives any amount that should not have been paid by the System, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the System.
- 11.** The Alternate Payee is ordered to report any payments received from the System on any applicable income tax return in accordance with the Internal Revenue Code provisions or regulations in effect at the time any payments are issued by the ERS. The System is authorized to issue a Form 1099R, or other applicable form on any direct payment made to the Alternate Payee.

**12.** The Alternate Payee is ordered to provide the System with prompt notification of any changes in the Alternate Payee's direct deposit and mailing address. The System shall not be liable for failing to make payments to the Alternate Payee if the System does not have current direct deposit information for the Alternate Payee at the time of payment. Nor is the System liable for the non-receipt of a Form 1099R if the ERS does not have current mailing address information at the time of issue.

**13.** The Retirant or the Alternate Payee shall furnish an original certified copy of this Order to the ERS. The Order is not a qualified ~~Hawaii Domestic Relations Order~~HiDRO until an original copy is received by the ERS and is thereafter so deemed pursuant to HRS § 88-93.5, as revised, and HAR § 6-40-1, et seq.

**14.** This Order shall not be interpreted in any way to:

- A. Require the designation by the Retirant of a particular person as the recipient of benefits upon the death of the Retirant;
- B. Require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the Retirant may select;
- C. Require any action on the part of the System contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the Alternate Payee;
- D. Award the Alternate Payee an interest that is contingent on any condition other than those conditions resulting in the liability of the System for payment under its plan provisions;
- E. Give to someone other than the Retirant the right to designate a beneficiary or to choose any retirement plan or option available from the ~~system~~System;
- F. Attach a lien to any part of amounts payable with respect to the Retirant;
- G. Require the System to make a lump sum payment of the awarded portion of the benefits to the Alternate Payee that are not otherwise payable in a lump sum;
- H. Require the System to terminate the Retirant from membership or employment, to refund contributions, or to retire the Retirant;
- I. Provide any type or form of benefit, or any option, not otherwise provided by the System;
- J. Provide increased benefits, determined on the basis of actuarial value; or

- K. Require the ~~system~~System to provide benefits or refunds to the Alternate Payee that are required to be paid to ~~another alternate payees~~ pursuant to ~~an~~ earlier ~~Hawaii domestic relations order~~HiDROs.

**15.** This Court does not have jurisdiction over the System with respect to this divorce action, and the System shall not and has not been made a party to this divorce action and any other judicial proceeding herein. A determination by the System that this Order is not a ~~Hawaii domestic relations order~~HiDRO shall be subject to review as provided in HRS chapter 91, and the System's rules relating to contested cases. Any party to this divorce action who attempts to make the System a party to this divorce action shall be liable to the System for the System's costs and attorneys' fees, including attorneys' fees and costs for obtaining a dismissal.

**16.** The Court retains jurisdiction to amend this Order so that it will constitute a qualified ~~Hawaii Domestic Relations Order~~HiDRO under the System's governing laws and rules even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System determines at any time that changes in the law, the administration of the System, or any other circumstances make it impossible to calculate the portion of a distribution awarded to the Alternate Payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

DATED: \_\_\_\_\_ (city), Hawaii, \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge \_\_\_\_\_

APPROVED AS TO FORM AND  
CONTENT:

X \_\_\_\_\_  
Signature of Plaintiff  
Print name: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM AND  
CONTENT:

X \_\_\_\_\_  
Signature of Defendant  
Print name: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

X \_\_\_\_\_  
Signature of Attorney for Plaintiff  
Print name: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

X \_\_\_\_\_  
Signature of Attorney for Defendant  
Print name: \_\_\_\_\_  
Date: \_\_\_\_\_



HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

EMPLOYEES' RETIREMENT SYSTEM

CHAPTER 21

SERVICE CREDIT: EXCLUSION FROM MEMBERSHIP  
OF CERTAIN EMPLOYEES

Subchapter 1 Claim as Prior Service Credit for Service as a  
Legislator Rendered Prior to July 1, 1951

- §6-21-1 Filing of claim and enrollment
- §6-21-2 Retirement

Subchapter 2 Computation of One Year of Service

- §6-21-3 Applicability
- §6-21-4 Fractional month of employment
- §6-21-5 General employees
- §6-21-6 Teachers of the Department of Education and State Public  
Charter School Commission
- §6-21-7 Elected officials
- §6-21-8 Part-time employees
- §6-21-8.1 Average final compensation

Subchapter 3 Conversion of Unused Sick Leave to Additional  
Service Credit

- §6-21-9 Unused sick leave defined
- §6-21-10 Limitations
- §6-21-11 Conversion rate
- §6-21-12 Certification

Subchapter 4 Exclusion from Membership of Certain Employees

- §6-21-13 Scope
- §6-21-14 Employees excluded from membership
- §6-21-15 Acquisition of service credit by excluded employees

§6-21-1

Historical Note: Subchapter 1 of this chapter is based substantially on Procedural Rules Relating to Claim of Prior Service Credit for Service as a Legislator Rendered Prior to July 1, 1951, Employees' Retirement System of the State of Hawaii. [Eff 6/15/70; R 11/9/81]

SUBCHAPTER 1

CLAIM OF PRIOR SERVICE CREDIT FOR SERVICE AS A  
LEGISLATOR RENDERED PRIOR TO JULY 1, 1951

§6-21-1 Filing of claim and enrollment. Upon receipt of a claim for service as a legislator rendered to July 1, 1951, and upon verification of the service, the claimant shall be enrolled as a member of the system. [Eff 11/9/81; comp 2/9/89] (Auth: HRS §§88-28, 88-52) (Imp: HRS §88-52)

§6-21-2 Retirement. Any legislator or former legislator who has been enrolled as a member in accordance with section 6-21-1 shall be retired in accordance with sections 88-73 and 88-74, Hawaii Revised Statutes. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-52) (Imp: HRS §88-52)

Historical Note: Subchapter 2 of this chapter is based substantially on Procedural Rules Relating of the Employees' Retirement System of the State of Hawaii Relating to the Computations of One Year of Service [Eff 6/15/70; R 11/9/81]

SUBCHAPTER 2

COMPUTATION OF ONE YEAR OF SERVICE

§6-21-3 Applicability. This subchapter shall apply in determining how much service in any year is equivalent to a year of service for members classified as general employees in section 88-102, Hawaii Revised Statutes, for members classified as teachers in section 88-102, Hawaii Revised Statutes, for elected officials and part-time

workers who are included in the membership of the system. [Eff 11/9/81; comp 2/9/89] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

**§6-21-4 Fractional month of employment.** A fractional month of employment resulting from initial employment, termination of employment, death, suspension or leave of absence without pay, shall be considered one full month of service if the employee **was paid or on paid status** for at least one-half of the month. [Eff 11/9/81; comp 2/9/89; am and com ] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

**§6-21-5 General employees.** (a) For general employees, twelve full months of employment shall be considered one year of service.

(b) A fractional month of employment shall be considered one full month of service, if it meets the requirements of section 6-21-4. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

**§6-21-6 Teachers of the Department of Education and the Hawaii Public Charter School Commission.** (a) For employees classified as teachers, a year of service shall be computed on the basis of a school year. If service is terminated earlier through death or retirement, service shall be computed to the date of death or retirement.

(b) **For traditional school year schedules**, a fractional month of employment shall be considered one full month of employment if it meets the requirements of section 6-21-4; provided that if absences without pay total two and one-half months or more in any one semester, one additional month shall be excluded in computing a year of service.

(c) **For other school schedules, a fractional month of employment shall be determined on the basis of teacher days worked and paid during the official school year.** [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

**§6-21-7 Elected officials.** (a) For elected officials, any twelve months of service in the office to which they were elected or appointed shall be considered a year of service. For legislators, computation of a year of service shall commence from the day they are elected or



appointed. For all other elected officials, computation shall commence from the day they take office.

(b) A fractional month in office shall be treated in the same manner as a fractional month of employment provided for in section 6-21-4. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-50, 88-52) (Imp: HRS §§88-50, 88-52)

§6-21-8 Part-time employees. (a) For an employee to be eligible for membership in the system, employers shall establish the part-time employee position with one full-time equivalence and base pay, and the part-time employee must meet the minimum of fifty percent (50%) full-time equivalence.

(1) Employers shall designate and report eligible part-time employees at a minimum of fifty percent (50%) full-time equivalence or greater.

(2) Employers shall convert hourly-paid employees to a percentage of full-time equivalence for the position.

(3) Employers shall determine and report a full-time equivalence base pay compensation rate for part-time hourly-paid employees consistent with a bargaining unit salary schedule:

a. Annual Compensation: Hourly Rate x 2080 = Annual Base Salary

b. Monthly Compensation: Hourly Rate x 2080 ÷ 12 = Monthly Base Salary

(4) For part-time employees who are included in the membership of the system, twelve months of part-time service shall be considered a year of service for eligibility purposes.

(b) If an employee has service comprised of periods including both part-time and full-time employment, the part-time service shall be converted to full-time equivalent service or vice-versa, for the purpose of determining average final compensation and the retirement allowance payable. Whatever method of conversion is used, the part-time or full-time service shall conform to the same basis of part-time or full-time salary used to determine average final compensation; provided that if the employee is employed on the same part-time basis throughout the member's membership, no conversion to full-time equivalent is required and the average final compensation shall be based on the part-time salary.

(c) A fractional month of employment shall be considered a month of part-time service if it meets the requirement of section 6-21-4. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-50) (Imp: HRS §88-50)

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§6-21-8.1 Average final compensation. (a) For the purpose of computing average final compensation, a year of credited service means a period of twelve consecutive months of service; provided that if a fraction of a month is considered a full month of service, the actual compensation, pay, or salary paid for the month shall be used in the computation.

(b) For the purpose of computing final compensation under the provisions of §6-21-6 for teachers of the Department of Education and the Hawaii Public Charter School Commission, a year of credited service means a period of twelve consecutive months of service as determined on the basis of traditional school year schedules under §6-21-6(b) or other school schedules under §6-21-6(c). [Eff and comp 2/9/89; am and comp ] (Auth: HRS §§88-28, 88-50) (Imp: HRS §§88-50, 88-81)

Historical Note: Subchapter 3 of this chapter is based substantially on Procedural Rules Relating to the Conversion of Unused Sick Leave to Additional Service Credit, Employees' Retirement System of the State of Hawaii [Eff 8/4/75; R 11/9/81]

SUBCHAPTER 3

CONVERSION OF UNUSED SICK LEAVE TO  
ADDITIONAL SERVICE CREDIT

§6-21-9 Unused sick leave defined. Unused sick leave means the number of working days of sick leave which has been accumulated by the member in accordance with existing statutes, rules, regulations or collective bargaining agreements, and which remains unused at the time the member retires or terminates service. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §88-28) (Imp: HRS §88-63)

§6-21-10 Limitations. (a) Unused sick leave shall be converted to additional service credit only if the member has at least sixty days of that leave for each term of membership service at the time the member retires or terminates service.

(b) Additional service credit derived from the conversion of unused sick leave shall be used only for the purpose of computing retirement allowances and shall not be used to meet any length of service requirement, such as eligibility for retirement, the election of mode of retirement or for establishing vested benefit status.

(c) The conversion of unused sick leave to additional service credit shall apply only to members retiring or terminating service in good standing after July 1, 1975 **as determined and reported to the system by the member's employing agency.** [Eff 11/9/81; am and comp 2/9/89; am and comp ] (Auth: HRS §§88-28, 88-63) (Imp: HRS §88-63)

§6-21-11 Conversion rate. (a) Unused sick leave accumulated other than on the basis of working days shall be converted into working days at the rate of one working day for each eight hours, or in the case of firefighters who are employed on twenty-four hour work shifts, at the rate of two and one-tenth working days for each working shift.

(b) For the purpose of computing retirement allowance, unused sick leave shall be converted into additional service credit at the rate of one additional month of service for each twenty days of sick leave with

§6-21-11

any remaining balance of ten or more days being equal to another additional month of service. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-63) (Imp: HRS §88-63)

§6-21-12 Certification. On such form as may be prescribed by the system, or on such form as is being used by the employing agency, the agency responsible for the maintenance of sick leave records shall certify the amount of unused sick leave at the time of retirement or termination of service of the member. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §§88-28, 88-63) (Imp: HRS §88-63)

Historical Note: Subchapter 4 of this chapter is based substantially on Rules Relating to the Exclusion from Membership of Certain Employees, Employees' Retirement System of the State of Hawaii [Eff 8/25/73; R 11/9/81].

SUBCHAPTER 4

EXCLUSION FROM MEMBERSHIP OF CERTAIN EMPLOYEES

§6-21-13 Scope. This subchapter shall govern the exclusion from membership in the system of certain classes of employees who are employed on a part-time or short-term basis and members of the legislature who do not elect to be members of the system. [Eff 11/9/81; am and comp 2/9/89] (Auth: HRS §88-28) (Imp: HRS §88-43)

§6-21-14 Employees excluded from membership. The following classes of employees shall be excluded from membership in the system:

- (1) Persons employed by the legislature or any committee thereof; except that legislative employees employed on a full-time basis during and between sessions and any member of the system on leave of absence to be employed by the legislature during any legislative session shall be included in the membership of the system as provided in

§6-21-15

- sections 88-21 and 88-54, Hawaii Revised Statutes;
- (2) Persons employed on short-term or temporary appointments of three months or less;
  - (3) Persons employed as substitute teachers;
  - (4) Persons employed in part-time positions in adult education and evening class programs;
  - (5) Persons in any position requiring less than one-half of full-time employment, including but not limited to, lecturers teaching less than seven credit hours per semester at baccalaureate colleges of the University of Hawaii and lecturers teaching less than eight credit hours per semester in the community colleges of the University of Hawaii;
  - (6) Graduate assistants of the University of Hawaii;
  - (7) Persons employed in any position where employment is casual or intermittent and the percentage of full-time equivalence is indeterminate; provided that after at least three months, any person whose employment has been determined to average twenty or more hours per week shall be included in the membership of the system;
  - (8) Members of the legislature who do not elect to be members as provided in section 88-42, Hawaii Revised Statutes; or
  - (9) Students, including graduate school students, employed as student helpers, student hires, student aides, summer student law clerks, college student interns, or in similar non-permanent positions. [Eff 11/9/81; am and comp 2/9/89]  
(Auth: HRS §88-28) (Imp: HRS §§88-21, 88-43)

§6-21-15 Acquisition of service credit by excluded employees.

- (a) A member shall not be eligible for service credit for any period of service as an employee excluded from membership in the system.
- (b) A member who rendered service in the armed forces of the United States during the period 1941-1949 who was employed by the Territory or a county at the time of induction into the armed forces but was not included in the membership of the system, and who returned to employment by the Territory or a county shall be eligible to purchase service credit not to exceed four years for the period of military service

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§6-21-15

between 1941-1949, if the member returned to employment with the Territory or a county within five years after discharge from the armed forces. [Eff and comp 2/9/89] (Auth: HRS §88-28) (Imp: HRS §88-43, 88-51(8))