

**NOTICE OF PUBLIC HEARING
EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII
PROPOSED RULE MAKING**

Pursuant to Chapter 91, Hawaii Revised Statutes, notice is hereby given that the Employees' Retirement System of the State of Hawaii ("ERS") will hold a public hearing to consider proposed amendments and other changes to Title 6, Hawaii Administrative Rules ("HAR") for the following chapters:

1. **HAR Chapter 6-20:** amendments to update and clarify some of the general definitions used in the ERS rules; including for "Administrator," "Alternate Payee," "Executive Director," "Hearing officer," "Petition," "Presiding Officer,"; provide for alternate payees to obtain information relevant to their benefits under a domestic relations order; correct a statutory reference in the rule establishing ERS copying charges; increases the time that the ERS Board has to consider petitions seeking a change in the ERS rules; and clarifying changes to the rules regarding ERS declaratory ruling proceedings, including roles of the ERS Board, hearings officers and Executive Director, representation of parties.
2. **HAR Chapter 6-21:** amendments to define and clarify: service credit for fractional months of employment to be based on compensation; service credit for teachers on modified school schedules; eligibility requirement that part-time employees be designated with full-time equivalence; computation of average compensation for teachers; confirm that the conversion of sick leave credit would only apply to members who retire or terminate in good standing as reported by the employing agency; exclusion from membership for employees in any position requiring less than ½ of fulltime employment; and corrects typographical errors in this chapter.
3. **HAR Chapter 6-22:** amendments to implement sections 3 through 10 of Act 17, Session Laws of Hawaii 2017 ("Act 17") which allow the ERS to use a designated entity as an alternative to the ERS medical board; update the definitions of "designated entity" and "occupational hazard" and provisions used in disability retirement and accidental death benefits applications and proceedings to current decisions of the ERS Board and current ERS practices and procedures, including clarification of certifications and findings to be made by the medical board or designated entity, and their appearance as witnesses.
4. **HAR Chapter 6-23, Subchapter 1:** amendments to implement sections 3 through 10 of Act 17, which allow the ERS to use a designated entity as an alternative to the ERS medical board and provides for certain steps in the evaluation and processing of applications and hearings for disability retirement and accidental death benefits, and related attorneys' fees and costs, to be handled by the ERS system (executive director) instead of the ERS Board; make the definitions used in this subchapter consistent with the definitions in HAR chapters 6-20 and 6-22, including "Causation" and "Petition"; reducing the length of time in which an applicant can petition for a contested case; update the rules to current ERS practices and procedures, including roles, powers, and duties of hearings officers, presiding officers, board chairpersons and members; adding procedures for dismissal of a contested case due to default or by motions to dismiss or for summary judgment; clarifying roles of parties in contested case hearings.
5. **HAR Chapter 6-23, Subchapter 2:** amendments to update the rules to current ERS practices and procedures which provide for contested case hearings to be conducted by a

hearing officer and exceptions to the hearing officer's recommended decisions to be heard by the ERS Board, including; clarifying definitions of "informal decision", "petition," and "respondent"; clarifying roles, powers, and duties of hearings officers, presiding officers, board chairpersons and members; provides for certain steps in the evaluation and processing of applications and hearings to be handled by the ERS system (executive director) instead of the ERS Board; providing that petitions that rely on matters outside the scope of chapter 88, HRS may be denied; updating default procedures; other clarifying and housekeeping changes to the rules.

6. **HAR Chapter 6-26, Subchapter 2:** amendments for Subchapter 2 address the acceptance of copies of original documents for proof of birth and revises the types of acceptable evidence of a member's or beneficiary's date of birth; and updates the examples of computations of age, using more current example years.

7. **HAR Chapter 6-29:** amendments to update these rules to conform to current ERS practices and procedures for address change, requesting account balance, elimination of mailing of semi-monthly pension checks, service while engaged in professional improvement leave, and class H member employee contributions during receipt of workers' compensation benefits. Includes a new rule that implements section 1 of Act 17 regarding the finalization of ERS retirant's pension benefits and the interest rate to be applied for a finalization that takes place more than six calendar months after the month of the retirant's retirement, or seven months when regular service retirement begins on December 31.

The public hearing will be held on Tuesday, January 18, 2022, at 1 p.m. at City Financial Tower, 201 Merchant Street, Suite 1400, Honolulu, Hawaii. Attendees will be subject to any requirements for gatherings in response to the COVID-19 pandemic. The hearing will be accessible via interactive conference technology using Microsoft Teams. A link will be posted prior to the hearing at <http://ers.ehawaii.gov/resources/all-publications#HAR>.

All interested persons are invited to attend the hearing and to state their views relative to the proposed rules, either orally or in writing. Written testimony must be provided to the presiding officer at the public hearing, or mailed and delivered before the start of the hearing to the Employees' Retirement System of the State of Hawaii, City Financial Tower, 201 Merchant Street, Suite 1400, Honolulu, HI 96813. Testimony also may be emailed to dbf.ers.sss@hawaii.gov (Subject: ERS Public Hearing).

The proposed rules will be available for viewing and download free of charge on the internet at the following website: <http://ers.ehawaii.gov/resources/all-publications#HAR>. To request a copy to be mailed free of charge, call (808) 586-1735. The proposed rules may be reviewed in person Monday through Friday, from the date of this notice to January 18, 2022, between the hours of 7:45 a.m. and 4:30 p.m. (except holidays) at all ERS branch offices including the neighbor islands, at the following locations:

Oahu: See address above

Hawaii Island: 101 Aupuni Street, Ste. 208, Hilo

Kauai: 3060 Eiwa Street, Rm. 302, Lihue

Maui: 54 S. High Street, Rm. 218, Wailuku

Requests for auxiliary aids or services or assistance due to a disability must be received by the Employees' Retirement System by January 4, 2022. Please call 808-586-1735 or email

dbf.ers.sss@hawaii.gov (Subject: ERS Public Hearing). If a request is received after January 4, 2022, we will try to obtain the auxiliary aid/service or assistance but cannot guarantee that the request will be fulfilled.

Emmit Kane, Chair
Board of Trustees
Employees' Retirement System of the State of Hawaii