

August 2007

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LEAVES

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A9.365 SPECIAL BENEFITS FOR ERS MEMBERS ON MILITARY LEAVE  
WITHOUT PAY

1. Purpose

To provide uniform procedures for the payment of retirement contributions by the employer on behalf of eligible employees who are on active military duty, on leave without pay-military, and members of the State Employees' Retirement System (ERS) Contributory or Hybrid Retirement Plan, pursuant to Chapter 88, Hawai'i Revised Statutes (H.R.S.), Pension and Retirement Systems, Servicemen's Act.

Section 88-132, H.R.S. provides a deadline for the payment of retirement contributions by the employer, and requires the ERS to assess the program 4 ½% interest (compounded annually) on contributions not received within 60 days of the member's return to service or the date of the member's death in performance of the military duty.

2. Objective

To establish procedures for the payment of retirement contributions by the employer, up to 4 years cumulative maximum, on behalf of employees on active military duty and on leave without pay-military. Employees shall earn service credit as if still employed.

3. Applicability

- a. This instruction applies to all ERS eligible employees who are enrolled in the Contributory or Hybrid Retirement Plan, on active military duty, and on leave without pay-military.
- b. Payment of retirement contributions by the employer shall apply only to employees who return to work within 90 days of release from active duty under honorable conditions. If the 90<sup>th</sup> day falls on a

weekend or scheduled day off, the employee shall return on the following work day.

- c. Employees who terminate or resign are entitled to a return of accumulated contributions, including contributions made by the employer under the Servicemen's Act. The employees shall cease to be entitled to any further benefits under the Servicemen's Act.
- d. The retirement contributions shall be based on the salary the employee would have received had he/she not been called to active duty, including any salary increases.
- e. Employees may also be entitled to an additional year (total of 5 years) or more of service credit under the USERRA (Uniformed Services Employment and Reemployment Rights Act). Employees in the Contributory or Hybrid Plan would be responsible for making their own contributions for this additional service credit. Interested employees should contact ERS.

#### 4. Responsibilities

- a. Employees are responsible for providing the Armed Forces of the United States Report to Transfer or Discharge (DD-214) to the Personnel Representative in a timely manner.
- b. The employer is responsible for making retirement contributions, up to 4 years cumulative maximum, for eligible employees in the Contributory or Hybrid Retirement Plan who are called to active military duty and on leave without pay-military.

#### 5. References

Section 88-132, H.R.S.  
Section 88-139, H.R.S.  
Executive Policy 9.212 Military Leave  
Uniformed Services Employment and Reemployment  
Rights Act (USERRA) of 1994  
Title 38 of the United States Code, Chapter 43

## 6. Guidelines

- a. When an employee in the Contributory or Hybrid Retirement Plan returns to work from active military duty, he/she shall timely submit the Armed Forces of the United States Report to Transfer or Discharge (DD-214) to the Personnel Officer.
- b. The Personnel Officer shall submit the Payroll Notification Form (PNF) for military leave and a copy of the DD-214 to the ERS within 30 days of the employee's return to work. ERS shall not accept the Orders that the employee received, as it may not have the actual date that the employee was placed on active duty status.
- c. In the event of death in the performance of the military duty, ERS requires the PNF for military leave, original death certificate, and a copy of the DD-214 within 30 days of receiving notice.
- d. ERS shall determine the employee's eligibility under the Servicemen's Act. If the employee is eligible, ERS shall inform the employer of the contribution amount owed (attachment 1), and include two payment certificate forms (EC&B 122) (attachment 2) and the military leave calculation sheet (attachment 3).
- e. If the employee is not eligible, ERS shall inform the employee with a copy to the employer. The employee may appeal the decision to ERS.
- f. For eligible employees, the employer shall prepare an Authorization for Payment form (AFP) (Refer to AP A8.861 Authorization for Payment Form). The AFP shall be submitted to the Disbursing Office, along with copies of the EC&B 122 form, ERS letter, and military leave calculation sheet.
- g. The original letter, calculation sheet and EC&B 122 form shall be filed in the official employee personnel folder. For civil service and executive employees, please forward the documents to the Office of Human Resources, as the designated custodian of the official personnel records.

- h. The Disbursing Office remits payment to the ERS within 30 days from the date of the EC&B 122 form.
- i. ERS shall send a confirmation letter to the employee, employer and the Disbursing Office.
- j. The employer shall make payment of the retirement contributions within 60 days of the employee's return from active military service or notification of the employee's death in the performance of military duty. If payment is not received by the deadline, the ERS shall assess the program 4 ½% interest (compounded annually).

(sample letter to department)

December 16, 2006

TO: Dept. of .....

Attention: Payroll

FROM: Martin Mori  
Enrollment, Claims & Benefits

SUBJECT: Retirement Contributions for  
Mr. John Doe SSN: xxx-xx-0000  
(Servicemen's Act)

Mr. Doe was on military leave from 02/01/2006 to 11/30/06 and returned to work on 12/01/06.

Under the Servicemen's Act, retirement contributions should be deposited to Mr. Doe's account for this military leave period .

Total retirement contributions of **\$2,000.00** are now payable for the period listed above (see attached worksheet).

Please remit payment to our office along with **one** copy of the attached payment certificate (EC&B 122) within 30 days of this notice. Failure to pay amount promptly, may result in additional interest charges.

Should you need further assistance, please call me at 586-1790.

cc: Mr. John Doe

EC&B 122

(SAMPLE PAYMENT CERTIFICATE)

EMPLOYEES' RETIREMENT SYSTEM  
PAYMENT CERTIFICATE

December 16, 2006

DEPT OF ...  
ADDRESS  
CITY STATE ZIP

RE: John Doe  
S.S. No: xxx-xx-0000

- STATE
- C & C OF HONOLULU
- BWS
- COUNTY OF

PAYMENT FOR:  
SERVICEMEN'S ACT

AMOUNT OF PAYMENT:

Total Due \$2,000.00

REMARKS: If payment is not received by 01/29/2007 additional interest charges may be applied.

Payment for period:

02/01/2006 to 11/30/2006

\_\_\_\_\_  
(Dept Payroll Signature)

\_\_\_\_\_  
(Date)

Please sign and return one copy with check made payable to:

**EMPLOYEES' RETIREMENT SYSTEM**  
City Financial Tower  
201 Merchant Street, Suite 1400  
Honolulu, HI 96813  
Telephone: 586-1735

PREPARED BY: RCE - MSM

(SAMPLE)  
MILITARY LEAVE CALCULATION

S.S. No: xxx-xx-0000

Name: John Doe

Dates of Military Leave: 02/01/2006 to 11/30/2006

Discharge papers received: Y N Requested: n/a  
(DD214)

Personnel action form(s) received: Y N Requested: n/a

90<sup>th</sup> day after discharge: 02/28/2007 Return to work date: 12/01/2006

Service Credit: 0 years 10 months  
(not to exceed 4 years)

Monthly salary prior to military leave: \$3,333.33 Base contributions: \$200.00

<u>Dates of Military Leave</u>	<u>Contributions Required</u>
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<u>From</u>	<u>To</u>	<u>Mos</u>	<u>Contributions</u>		
02/06	11/06	10 X	200.00	=	2,000.00

TOTAL: 2,000.00

Contributions received within 60 days? Y N

If no, calculate interest charges using deficiency menu: Interest: n/a

Total w/int.: \$2,000.00

RCE MSM  
Date 12/16/06