

STAND. COM. REP. NO.

2280

Honolulu, Hawaii

FEB 17

, 2006

RE: S.B. No. 2274

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Labor, to which was referred S.B. No. 2274
entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT
SYSTEM,"

begs leave to report as follows:

The purpose of this measure is to exclude from membership in
the hybrid plan, members of the employees' retirement system (ERS)
who received in-service refunds of pension contributions made
under section 414(h)(2) of the Internal Revenue Code of 1986, as
amended.

This measure also repeals the provision allowing members a
one-time withdrawal of the member's contributions to the ERS in
the event of economic hardship.

Testimony in support of this measure was submitted by the ERS
Board of Trustees and the Hawaii State Teachers Association.

Your Committee finds that the tax-qualified retirement plan
status of the ERS may be in jeopardy due to certain provisions of
the law regarding the ERS. Section 414(h)(2) of the Internal
Revenue Code of 1986, as amended, provides for favorable tax
treatment for employee contributions "picked up" by the employer
for the employee to a tax qualified retirement plan established by
a State or county. The tax-qualified status of the ERS is
currently compromised by allowing members to receive a refund of
contributions made under section 414(h)(2) while the member is
employed by the State or county or if the member received a refund

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while the member was employed by the State or county and the member is subsequently allowed to have additional contributions made on the member's behalf under section 414(h)(2).

Your Committee further finds that, under the current law, a member is allowed to make a one-time withdrawal of accumulated contributions to the ERS in the event of economic hardship while still employed by the State or county. However, testimony given by the ERS has indicated that this provision also jeopardizes the ERS's tax-qualified status.

Your Committee determines that in order to maintain the ERS' tax-qualified retirement plan status, the law must be amended to bring the ERS in compliance with the Internal Revenue Code. Although this measure will prevent certain members of the ERS from participating in the new H class of service, the prohibition is limited to those members who had previously made an election to change their membership status and receive their contributions from the ERS. This is a limited group of members who at one time were offered an election, which is now irrevocable. Your Committee believes in the importance of making necessary changes to the law for the preservation of the tax-qualified retirement plan status with the Internal Revenue Service as the ERS continues to move forward, improve, and evolve, including through the establishment of the new H class of service.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2274 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Labor,




BRIAN KANNO, Chair



The Senate
Twenty-Third Legislature
State of Hawaii

Record of Votes of the
Committee on Labor
(Bills and Resolutions)

Measure:* SB 2274	Committee Referral: LBR, WAM	Date: 1-30-06		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (2312) <input type="checkbox"/> Pass, with amendments (2311) <input type="checkbox"/> Hold (2310) <input type="checkbox"/> Recommit (2313)				
Members	Ayes	Ayes(WR)	Nays	Excused
KANNO, Brian (C)	✓			
IHARA, Jr., Les (VC)	✓			
TANIGUCHI, Brian T.				✓
SLOM, Sam	✓			
TOTAL	3	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Do not list more than one measure per Record of Votes.