

Honolulu, Hawaii

March 19, 2008

RE: S.B. No. 3005  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 3005, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF THE EMPLOYEES' RETIREMENT SYSTEM,"

begs leave to report as follows:

The purpose of this bill is to protect the tax-qualified status of the Employees' Retirement System (ERS) by:

- (1) Eliminating optional membership in the ERS for elective officers;
- (2) Implementing a one-time irrevocable election by elective officers to be excluded from membership in the ERS; and
- (3) Providing that a retirant may return to service as an elective officer without suspension of their retirement benefits under certain conditions.

The Department of Budget and Finance and ERS Board of Trustees testified in support of this bill.

The Internal Revenue Service (IRS) is required to determine whether governmental public pension plans such as the ERS comply with federal income tax laws. As a result, the ERS is mandated to submit determination letters to the IRS and make remedial plan



amendments based on a five-year cycle. This measure allows the ERS to comply with regulations under federal income tax laws, thus maintaining its tax-qualified status which benefits its membership.

However, your Committee finds that elective officers and judges who have reached the maximum retirement allowance and continue to be active members will continue to be required to contribute to the ERS without receiving added retirement benefits. This may be resolved by repealing the statutory cap on retirement benefits for elective officers and judges. Although it is unclear at this point what effect this action will have on the tax-exempt status of the ERS, this issue deserves further consideration.

Accordingly, your Committee has amended this bill by deleting its contents and inserting the provisions of H.B. No. 3083, H.D. 1. As amended, this measure continues to protect the tax-qualified status of the ERS with the same provisions but in addition, it repeals the statutory cap on retirement benefits for elective officers and judges.

Other technical, nonsubstantive amendments have been made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3005, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3005, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



ALEX M. SONSON, Chair



State of Hawaii  
House of Representatives  
The Twenty-fourth Legislature

HSCR 1236-06

**Record of Votes of the Committee on Labor & Public Employment**

<b>Bill/Resolution No.:</b> SB 3005, SD2	<b>Committee Referral:</b> LAB, FIN	<b>Date:</b> 03-11-08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. SONSON, Alex M. (C)	X			
2. NAKASONE, Bob (VC)				X
3. EVANS, Cindy	X			
4. HAR, Sharon E.				X
5. LEE, Marilyn B.	X			
6. LUKE, Sylvia				X
7. McKELVEY, Angus L.K.	X			
8. NISHIMOTO, Scott Y.				X
9. SOUKI, Joseph M.	X			
10. TAKAMINE, Dwight Y.	X			
11. TAKUMI, Roy M.	X			
12. MEYER, Colleen Rose				X
13. PINE, Kymberly Marcos				X
<b>TOTAL (13)</b>	7	0	0	6
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>_____ committee acronym(s)</small>				
<b>Vice Chair's or designee's signature:</b> _____ 				
<b>Distribution:</b> Original (White) – Committee                      Duplicate (Yellow) – Chief Clerk's Office				