

TESTIMONY BY DAVID SHIMABUKURO
ADMINISTRATOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 2348

FEBRUARY 8, 2008

RELATING TO TAXATION

Chair Sonson and Members of the Committee:

H.B. No. 2348 imposes State income taxes on rollovers made by State and county employees from their deferred compensation or tax annuity plans to their State or county retirement plans.

We believe the intent of this bill is to impose state income tax when ERS members rollover or transfer their deferred compensation or tax sheltered annuity funds to purchase ERS membership service credits and to upgrade their Noncontributory Plan service to Hybrid Plan service in the future. In this regard our tax attorney is recommending that the language on page 7, lines 1 through 9 for sections (m) and (n) be replaced with the attached language for sections (m) through (p).

We are willing to work with your Committee on any technical revisions that may be needed to carry out the purpose of this Bill.

The ERS Board of Trustees has not yet taken a position on this Bill.

Thank you for the opportunity to testify on this measure.

Attachment

ATTACHMENT TO ERS TESTIMONY FOR HB 2348

Replace page 7, lines 1 through 9 with the following:

(m) In administering section 402 (with respect to the taxability of a beneficiary of an employees' trust) of the Internal Revenue Code, section 402(c) (providing for tax-free rollovers) shall not be operative for the purpose of this chapter with respect to amounts rolled over to the Employees' Retirement System of the State of Hawaii if the amounts rolled over would have been subject to Hawaii income tax if distributed at retirement rather than being rolled over to the Employees' Retirement System of the State of Hawaii.

(n) In administering section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code, section 403(b)(8) (providing for tax-free rollovers) shall not be operative for the purpose of this chapter with respect to amounts rolled over to the Employees' Retirement System of the State of Hawaii; and section 403(b)(13) (providing for non-taxable trustee-to-trustee transfers to purchase permissive service credit) shall not be operative with respect to amounts transferred to the Employees' Retirement System of the State of Hawaii.

(o) In administering section 408 (with respect to individual retirement accounts) of the Internal Revenue Code, section 408(d)(3) (providing for tax-free rollovers) shall not be operative for the purpose of this chapter with respect to amounts rolled over to the Employees' Retirement System of the State of Hawaii if the amounts rolled over would have been subject to Hawaii income tax if distributed at retirement rather than being rolled over to the Employees' Retirement System of the State of Hawaii.

(p) In administering section 457 (with respect to deferred compensation plans of state and local governments) of the Internal Revenue Code, section 457(e)(16)(A) and (B) (providing for tax-free rollovers) shall not be operative for the purpose of this chapter with respect to amounts rolled over to the Employees' Retirement System of the State of Hawaii; and section 457(e)(17) (providing for non-taxable trustee-to-trustee transfers to purchase permissive service credit) shall not be operative with respect to amounts transferred to the Employees' Retirement System of the State of Hawaii.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Taxability of rollovers of state and county employees

BILL NUMBER: SB 2206; HB 2348 (Identical)

INTRODUCED BY: SB by Ige; HB by Ito, Chang, Lee, Waters and 9 Democrats

BRIEF SUMMARY: Amends HRS section 235-2.4 to add a new paragraph (m) to provide that in administering IRC section 403 (with respect to taxation of employee annuities), section 403(b)(8)(A)(ii) shall not be operative for state income tax purposes. Also adds a new paragraph (n) to provide that in administering IRC section 457 (with respect to rollover amounts in deferred compensation plans for state and local governments), section 457(e)(ii) shall not be operative for state income tax purposes.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: Under the current law, rollovers made by state and county employees from a deferred compensation plan into eligible state or county retirement plans are not taxed under the federal or state income tax. At retirement, when distributions are made from the state or county retirement plans, the distributions, while taxed for federal income tax purposes, will not be taxed for state income tax purposes.

If enacted, this measure proposes that such rollovers made by state and county employees shall be taxable for state income tax purposes since when distributions are made by the employee upon retirement, such distributions will not be taxable. Thus, this measure attempts to subject what had been tax deferred contributions to a 403(b) compensation plan to the state income tax at the time it is rolled over into a state or county pension plan. This appears to be equitable inasmuch as the distribution from a state or county plan will be tax exempt at the time of retirement.

Digested 2/07/08