

TESTIMONY BY DAVID SHIMABUKURO  
ADMINISTRATOR, EMPLOYEES' RETIREMENT SYSTEM  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 3083, H.D. 1

FEBRUARY 26, 2008

RELATING TO FEDERAL TAX QUALIFICATION  
OF THE EMPLOYEES' RETIREMENT SYSTEM

Chair Oshiro and Members of the Committee:

The Board of Trustees supports the original intent of H.B. No. 3083, H.D. 1 which included the following provisions to comply with federal income tax laws and maintain the ERS' tax-qualified status:

- Adds a new section which allows certain newly elected officials to make a one-time irrevocable election to join the ERS.
- Current elected officials will be given the opportunity to remain, join or terminate membership in the ERS before October 1, 2008. If no election is made, the elected official will retain the same ERS membership status.
- Current elected officials who are retirants will be given the opportunity to continue or terminate their pension before October 1, 2008. If no election is made, their pension will continue and they cannot return to active membership while serving as an elected official.
- Sets forth the circumstances under which retirants may return to service as elected officials without suspension of their retirement benefits.
- Repeals the provision that allows elected officials and judges who have reached the 75% statutory cap on retirement benefits to withdraw from ERS membership by retiring even though they remain in office.

We have the following concerns with the amendments in H.B. 3083, H.D. 1 which deleted portions in section 10: page 20, lines 8 to 22; page 23, lines 20 to 22; and page 24, lines 1 to 10. The

changes will repeal the 75% statutory ceiling on retirement benefits for elective officers and judges.

- The amendments will afford elective officers and judges an enhanced retirement benefit and will increase the ERS' \$5.1 billion unfunded liability. This is contrary to the provisions of Act 256, Session Laws of Hawaii 2007, which placed a moratorium on benefit enhancements until January 2, 2011.
- The amendments are not appropriate since the changes deviate from the Bill's subject matter "Relating To Federal Tax Qualification Of The Employees' Retirement System."

This Bill requires other substantial technical changes. We, therefore, recommend that Senate companion Bill, S.B. No. 3005, S.D. 1 be used as the vehicle to carry out the intent of this Bill.

Thank you for the opportunity to testify on this Bill.

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE

ON  
HOUSE BILL NO. 3083 HOUSE DRAFT 1

February 26, 2008

RELATING TO THE FEDERAL TAX QUALIFICATION OF THE EMPLOYEES'  
RETIREMENT SYSTEM

House Bill No. 3083 amends statutes governing the Employees' Retirement System (ERS) to protect its tax qualified status. House Draft 1 additionally deletes the existing pension benefit limit (seventy-five percent of average final compensation) for judges and elective officers.

The Department of Budget and Finance supports this administration measure in its original form and not the change included in House Draft (HD) 1. The HD 1 amendment is a benefit enhancement and is inconsistent with the title of the bill as it is not a tax qualification related issue.

In its original form, this bill eliminates optional membership in the ERS and includes 1) implementation of a one-time irrevocable election (at the time of initial election to office) to join the ERS by elective officers and 2) prohibition of the current practice by elective officers and judges to retire upon reaching the statutory cap on retirement benefits but delaying receipt of the benefits until a future separation date. Entrance into membership is currently at the option of elective officers and this optional membership jeopardizes the ERS' tax qualified status. The practice of retiring but delaying receipt of benefits until a future separation date

while the judge or elective officer continues in office raises tax qualification issues on optional membership and in-service distribution of pre-tax contributions. The bill also sets forth conditions under which a retiree may return to service as an elective officer and continue to receive their pension.

Inclusion of the HD 1 amendment is contrary to the benefit enhancement moratorium contained in Act 256, SLH 2007 and will further increase the ERS' \$5.1 billion unfunded liability. We support House Bill 3083 in its original form as it protects the ERS' tax qualified status and ensures the continued favorable tax treatment of employee contributions made on a pre-tax basis.