

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

February 21, 2008

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Ways and Means
Twenty-fourth State Legislature
State Capitol, Room 210
Honolulu, Hawaii

Dear Chair Baker:

RE: S.B. No. 3005, S.D. 1, Relating to Federal Tax Qualification of the
Employees' Retirement System

The Board of Trustees supports S.B. No. 3005, S.D. 1 which included the following provisions to comply with federal income tax laws and maintain the ERS' tax-qualified status:

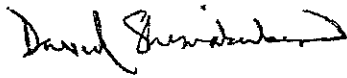
- Adds a new section which allows certain newly elected officials to make a one-time irrevocable election to join the ERS
- Current elected officials will be given the opportunity to remain, join or terminate membership in the ERS before October 1, 2008. If no election is made, the elected official will 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.

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We concur with most of the technical amendments in S.B. No. 3005, S.D. 1 but recommend that the changes that were made on page 17, section 13 for lines 16 through 21 be replaced with the original language of the Bill. The revised language in S.B. No. 3005, S.D. 1 could be interpreted to mean that current elected officials would have another chance to be excluded from ERS membership. The original intent of this Bill was to allow current elected officials a one-time election prior to the effective date of this Bill.

Please share this information with the members of your Committee. If you have any questions, please call me at 586-1700.

Very truly yours,



David Shimabukuro
Administrator

c: ERS Board of Trustees
The Honorable Georgina K. Kawamura, Director of Finance

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS & MEANS

ON
SENATE BILL NO. 3005, SENATE DRAFT 1

February 22, 2008

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

Senate Bill No. 3005 amends statutes governing the Employees' Retirement System (ERS) to protect its tax qualified status. Senate Draft (SD) 1 reportedly incorporates technical non-substantive amendments.

The Department of Budget and Finance supports this administration measure in its original form and defers to ERS and legal counsel to ensure the proposed amendments contained in SD 1 preserve the initial intent of Senate Bill 3005.

Senate Bill 3005 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.

Senate Bill 3005 protects the ERS' tax qualified status and ensures the continued favorable tax treatment of employee contributions made on pre-tax basis.