

MAR 16 2009

SENATE CONCURRENT RESOLUTION

REQUESTING THE HOUSE AND SENATE COMMITTEES ON LABOR TO CONDUCT JOINT HEARINGS TO ASSESS THE PERFORMANCE OF THE BOARD OF TRUSTEES OF THE DEFERRED COMPENSATION PLAN AND PLAN ADMINISTRATORS, AND TO RECOMMEND APPROPRIATE MEANS TO RESOLVE COMPLAINTS BY PLAN MEMBERS.

1 WHEREAS, the state Deferred Compensation Plan was
2 established in 1981 in Chapter 88E, Hawaii Revised Statutes
3 (HRS), in accordance with section 457 of the Internal Revenue
4 Code of 1954, as amended, for the benefit of public employees of
5 the State and the counties of the State of Hawaii to enable
6 these employees to defer a portion of their compensation to a
7 future period of time; and

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9 WHEREAS, pursuant to Chapter 88E, HRS, a Board of Trustees
10 was established with its members appointed by the Governor of
11 the State of Hawaii to perform necessary duties and functions to
12 establish and maintain a deferred compensation plan and to
13 engage the services of a plan administrator in accordance with
14 specifications as may be established by the Board; and

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16 WHEREAS, since its inception, the Deferred Compensation
17 Plan has experienced rapid growth, with large numbers of public
18 employees participating in the Plan and contributing a portion
19 of their compensation into the Plan to be held and invested by
20 the Board of Trustees in accordance with investment products
21 permitted under the Plan and Chapter 88E, HRS; and

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23 WHEREAS, concerns have been raised in recent years about
24 the Deferred Compensation Plan and the Plan Administrators' lack
25 of communication with the Plan members, lack of easy access to
26 information relating to each member's contribution, investment
27 performance, investment expenses, costs of administration, and
28 each member's special needs and circumstances; and

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1 WHEREAS, numerous public employees and retirees of both the
2 State and counties who are members of the Deferred Compensation
3 Plan have complained of the substantial lack of information on
4 their accounts, their inability to obtain information on their
5 investments from the Plan administrators, and the difficulties
6 that many of them have experienced in obtaining assistance in
7 planning for their retirement, in meeting technical requirements
8 of the Internal Revenue Service, and simply determining what to
9 do with their investments in a rapidly changing economy; and

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11 WHEREAS, despite having a Board of Trustees, the members
12 have little or no information relating to any meetings that the
13 Board of Trustees may have had or may have in the future on
14 matters that deal with the investments, with no reports on any
15 decisions that may have been made by the Board on any current
16 and future plans for the Deferred Compensation Plan; and

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18 WHEREAS, some members that have accepted ING Group as their
19 Plan administrator were promised easy access, timely and
20 appropriate information, and an excess of information, and these
21 promises have yet to materialize, resulting instead in difficult
22 access, with little if any information available to the members;
23 and

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25 WHEREAS, the recent downturn in the economy, the
26 substantial loss of investments by many Deferred Compensation
27 Plan members and the need for these members to make decisions
28 that may affect their investments, and the inability to access
29 Plan administrators has created great concern among the
30 employees and retirees with the Deferred Compensation Plan, the
31 Board of Trustees, and the Plan administrators; and

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33 WHEREAS, given the growing number of members, particularly
34 the growing number of retirees, the need to maximize members'
35 investments, together with the need to make timely and
36 appropriate decisions regarding members' investments, the Board
37 of Trustees and the Plan administrators contracted by the Board
38 of Trustees must take positive steps to allow timely and easy
39 access to each member's investments to enable the members to
40 make timely and appropriate decisions on their investments; and

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42 WHEREAS, there is a need for the Legislature to assess the
43 performance of the Board of Trustees and the Deferred
44 Compensation Plan administrators to ensure that the Board of



1 Trustees and the Plan administrators are acting in the best
2 interest and meeting the needs of Deferred Compensation Plan
3 members; now, therefore,
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5 BE IT RESOLVED by the Senate of the Twenty-fifth
6 Legislature of the State of Hawaii, Regular Session of 2009, the
7 House of Representatives concurring, that the House and Senate
8 Committees on Labor hold joint hearings to assess the
9 performance of the Board of Trustees of the Deferred
10 Compensation Plan and the Plan administrators, and to recommend
11 appropriate means to resolve complaints by Plan members; and
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13 BE IT FURTHER RESOLVED that the House and Senate Committees
14 on Labor are requested to review the contract decisions of the
15 Board of Trustees, including a review of Plan administrators
16 contracted by the Board of Trustees, Plan administrators'
17 investment expenses, the number of investment managers retained
18 by Plan administrators, method of selection of investment
19 managers, criteria used to retain investment firms, the rate of
20 return for each investment manager's portfolio, and a comparison
21 of these investment decisions with deferred compensation plans
22 of other jurisdictions; and
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24 BE IT FURTHER RESOLVED that the Board of Trustees, the
25 Board of Trustees' staff, and Plan administrators are requested
26 to fully cooperate and promptly respond to requests by the House
27 and Senate Committees on Labor in conducting this review; and
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29 BE IT FURTHER RESOLVED that the House and Senate Committees
30 on Labor are requested to produce a report on the Committees'
31 findings and recommendations, including any proposed
32 implementing legislation, to the Legislature upon the conclusion
33 of the joint hearings but no later than twenty days before the
34 convening of the Regular Session of 2010; and
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36 BE IT FURTHER RESOLVED that certified copies of this
37 Concurrent Resolution be transmitted to the President of the
38 Senate, the Speaker of the House of Representatives, the Chair
39 of the House Committee on Labor, the Chair of the Senate
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1 Committee on Labor, and the Chairperson of the Board of Trustees
2 of the Deferred Compensation Plan.

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OFFERED BY: _____

A handwritten signature in black ink, appearing to be 'D. J. U.', is written over a horizontal line.