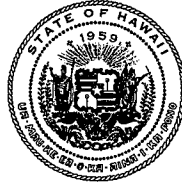


**HB 1550**

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



**LATE**

KURT KAWAFUCHI  
DIRECTOR OF TAXATION

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STATE OF HAWAII  
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**SENATE COMMITTEE ON WAYS & MEANS  
TESTIMONY REGARDING HB 1550 HD 2  
RELATING TO TAXATION**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: APRIL 6, 2009**

**TIME: 10:00 AM**

**ROOM: 211**

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This legislation imposes the Hawaii income tax on rollovers made by employees of governmental agencies and nonprofit organizations from qualified deferred compensation and qualified annuity plans to another qualified retirement plan or to an individual retirement (or individual annuity) plan.

The House Committee on Labor & Public Employment amended the measure to clarify that the Internal Revenue Code sections shall not be operative for purposes of purchasing employee service credit.

The Department offers comments to the proposed legislation.

As drafted, this measure would impose an income tax on employees of state and local governments that participate in deferred compensation plans, and employees of 501(c)(3) organizations and public schools with qualified annuity plans, when they rollover amounts in such qualified plans under §§ 403 and 457 of the Internal Revenue Code (the "Code") to another qualified retirement plan or individual retirement account. Both Hawaii and the Federal government do not tax employee- and employer-funded contributions to such qualified plans until the funds are distributed to the individual. Generally, balances in such plans may be rolled over to other qualified retirement plans (and individual retirement accounts) tax-free.

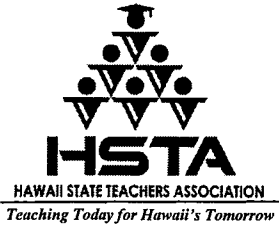
Retirement benefits for certain employees of the State of Hawaii and the City and County of Honolulu, and teachers were affected when the Employee Retirement System changed from a noncontributory pension plan to the "hybrid" plan currently being offered. To maximize their retirement benefits, affected employees may be allowed to use the balances in their §§ 403(b) (qualified annuities for 501(c)(3) organizations and public schools) and 457 (qualified deferred compensation plans for state and local governments) to "purchase" retirement credits for the years in which the plan was "noncontributory" by transferring monies from the §§403 and 457 plans to the hybrid plan. Without any legislation, the transfer would be considered a qualified rollover and the

funds would not be subject to Federal or Hawaii income tax at the time of the "rollover."

Pursuant to §§88-91, Hawaii Revised Statutes ("HRS"), pension distributions from the hybrid are not subject to income tax. Therefore, any amounts transferred by affected governmental employees from a §§403(b) or 457 plan to the hybrid plan would completely escape Hawaii income taxation.

In its current form, the revenue impact will be minimal as there will be minimal rollovers because most of the hybrid conversions are to take place through transfers, which are not included in the bill.

If the bill included direct or indirect transfers, including but not limited to, institutional transfers from the taxpayer's IRC Sections 457 or 403(b) accounts, and not just rollovers, there would be a revenue gain of \$7,000,000.



**LATE**

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**Roger K. Takabayashi**  
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**Wil Okabe**  
Vice President

**Karolyn Mossman**  
Secretary-Treasurer

**Mike McCartney**  
Executive Director

**TESTIMONY BEFORE THE SENATE COMMITTEE ON  
WAYS AND MEANS**

**RE: HB 1550, HD2 – RELATING TO TAXATION.**

April 6, 2009

**ROGER TAKABAYASHI, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION**

Chair Kim and Members of the Committee:

The Hawaii State Teachers Association strongly opposes HB 1550, HD2, which imposes the state income tax on rollovers made by employees of state and county agencies and tax-exempt organizations from qualifying annuity plans and qualifying deferred compensation plans, to eligible retirement plans or individual retirement accounts.

The Employee Retirement System (ERS) will soon be providing an opportunity for state employees to rollover funds from a Tax Shelter Annuity (TSA) or other individual retirement plans to their ERS account. Under current law, this allows employee funds to rollover without the employee having to pay federal and state taxes. However, HB 1550, HD 2 as written will allow rollover funds to be taxed by the state. HSTA opposes the provisions of this measure for several reasons.

First, the federal and state governments already tax disbursement made from a TSA or other individual retirement plan. This bill would, in effect, require rollover funds to be taxed twice: once when they are transferred to the ERS account and again when the funds are dispersed to the employee upon retirement HSTA opposes double taxation of its members and retired members and urges this committee not to pass this bill.

Thank you for the opportunity to testify.