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**HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING HB 1947
RELATING TO TAXATION**

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

DATE: FEBRUARY 18, 2010

TIME: 5PM

ROOM: 308

This measure repeals the state income taxation on certain rollover amounts used to purchase retirement service credit.

The Department of Taxation (Department) provides the following comments.

PREFERENCE FOR CONFORMITY—The Department prefers measures that bring Hawaii income tax law into conformity with the Internal Revenue Code. Last session, a law was passed to decouple from the Internal Revenue Code in the treatment of certain rollover amounts used to purchase retirement service credit, which resulted in taxation of these withdrawals. This measure repeals the prior law and brings Hawaii into conformity.



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Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association
February 18, 2010

H.B. 1947 – RELATING TO TAXATION

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 1947. This bill repeals the applicability of state income tax to rollovers by state and county employees from qualifying annuity plans and qualifying deferred compensation plans to eligible retirement plans to obtain additional service credits under the state's retirement system.

The Employees' Retirement System (ERS) is able to accept monies from public employee's deferred compensation plans or tax-sheltered annuity plans to purchase allowable service credits under the hybrid plan. The additional service credits increase an employee's average final compensation. This provides another source of monies for the purchase of service credit besides a member's savings account or taking out a loan.

Thank you for the opportunity to testify in support of H.B. 1947.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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

BILL NUMBER: HB 1947

INTRODUCED BY: Chong, B. Oshiro, M. Oshiro, Rhoads, Say, Yamashita

BRIEF SUMMARY: Amends HRS section 235-2.4 to repeal paragraph (o) that delineates the administration of IRC section 403 (with respect to taxation of employee annuities) to provide that funds that represent pre-tax employee deferrals or contributions that are distributed from the annuity and used solely to obtain retirement credits under the state retirement system shall not be treated as a rollover for purposes of section 403(b)(8)(A) of the Internal Revenue Code, and such funds shall be subject to income tax under this chapter.

Amends HRS section 234-2.4 to repeal paragraph (q) that delineates the administration of IRC section 457 (with respect to compensation plans of state and local governments and tax-exempt organizations) of the Internal Revenue Code that any funds that represent pre-tax employee deferrals or contributions that are distributed from the deferred compensation plan and used solely to obtain retirement credits under the state retirement system shall not be treated as a rollover for purposes of section 457(e)(16)(A) of the Internal Revenue Code and such funds shall be subject to income tax under this chapter.

The amendments made to HRS section 235-2.4 by this act shall not be repealed when HRS section 235-2.4(a) is repealed and reenacted on December 31, 2015, by Act 60, SLH 2009.

EFFECTIVE DATE: Tax years beginning after December 31, 2009

STAFF COMMENTS: Last year the legislature by Act 181, SLH 2009, addressed the dwindling general fund shortfall by amending Hawaii's tax law to impose the state income tax on rollovers made by state and county employees from qualifying deferred-compensation plans and qualifying annuity plans to eligible retirement plans or individual retirement accounts. Prior to the enactment of Act 181, employees who rolled over or transferred contributions from their deferred-compensation plans to purchase employees' retirement system membership service credits or to upgrade their noncontributory plan service to a hybrid plan service in the future were not assessed an income tax on these funds.

While it may have been believed that the purchase of credits in the ERS would have resulted in nontaxable benefits, that is not entirely true when it comes to plans where tax deferred contributions are made. At the time of payout as benefits, the System reports what portion of the benefit is due to deferred compensation and what part is due to a contribution made on behalf of the employee. The latter remains tax exempt while the former is subject to tax. Thus, tax deferred contributions to 403 and 457 plans that are rolled over to the ERS continued to be tax when paid as benefits.

Digested 2/17/10



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
FINANCE**

RE: HB 1947 – RELATING TO TAXATION

February 18, 2010

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Oshiro and Members of the Committee:

The Hawaii State Teachers Association supports HB 1947. This bill would repeal the unfair state income tax requirement on state and county employees who roll over their retirement accounts from one plan to another.

The state's hybrid retirement plan has made it possible for state and county workers to participate in a defined benefits plan with better benefits than were formerly available to them. But in moving their accounts from qualifying annuity and deferred compensation plans to the hybrid plan, they have been required to pay state income tax on the rollover amounts. Why should state and county employees be penalized for wanting to take advantage of benefits offered to them by the state?

We ask you to support this bill.

Thank you for this opportunity to testify.

Thursday, February 18, 2010

To: Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice-Chair
House Committee on Finance

From: Wayne Tanaka

Re: **HB 1947 – Relating to Taxation**

I am absolutely **opposed** to this bill and respectfully request that it **not** be passed.

I am an active member of the Employees' Retirement System of the State of Hawaii (ERS), under the Hybrid retirement plan. I have devoted the last 26 years of my life as a civil servant and I am, hopefully, nearing the end of my career.

As you are probably aware, the ERS is currently offering employees like me a one-time opportunity to upgrade their years of non-contributory service to equivalent years of Hybrid service. This would make a significant difference in the amount of my monthly pension after I retire. However, the only realistic way for me to pay the very substantial cost of such an upgrade would be to utilize the funds that I have already contributed to my deferred compensation plan over the last 20 plus years.

It is my understanding that transferring funds from my deferred compensation plan to the ERS through a direct trustee-to-trustee transfer for the purpose of upgrading my ERS retirement service credit is **not** subject to State of Hawaii income tax. However, if HB 1947 were to pass into law, it is my understanding that such a transfer **will** be subject to State of Hawaii income tax.

I would merely be transferring funds from one retirement plan to another with the prospect of enhancing my retirement benefits after decades of dedicated service to the State. The tax penalty proposed by HB 1947 would negate the benefits of such an upgrade. I cannot fathom the logic behind such legislation.

Once again, I urge this committee **not** to pass HB 1947. Do not penalize the people who have faithfully served this State and do not jeopardize their plans for a secure retirement, especially in these tenuous economic times. Thank you for the opportunity to testify.