

TESTIMONY

HB2533 HD1

TESTIMONY BY DAVID SHIMABUKURO
ADMINISTRATOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE SENATE COMMITTEE ON LABOR
ON
HOUSE BILL NO. 2533, H.D. 1

RELATING TO THE EMPLOYMENT OF
EMPLOYEES' RETIREMENT SYSTEM RETIRANTS

MARCH 9, 2010

Chair Takamine and Members of the Committee:

The Board of Trustees supports this Administration Bill as it is intended to protect the tax exempt status of the ERS by providing penalties for retirants who are reemployed in violation of chapter 88 and the Internal Revenue Code of 1986, as amended.

This Bill also provides a more comprehensive structure by including certain provisions of Act 286, Session Laws of Hawaii 2006 (retired teachers and Department of Education administrators employed in teacher shortage areas or mentors for new teachers) and Act 156, Session Laws of Hawaii 2008 (labor shortage or difficult-to-fill positions)by:

- o Establishing the conditions for reemployment of a retirant in a position that is excluded from ERS membership (e.g., temporary or part-time) by requiring a six month "retirement" provision.
- o Requiring the retirant to reimburse the ERS for any retirement allowance or other benefit paid during the reemployment if in violation of the ERS statutes, plus eight per cent annual interest.
- o Requiring the retirant and the employer to pay the employee and employer contributions that should have been paid during the reemployment if in violation of the ERS statutes, plus eight per cent annual interest.

- o Requiring the employer and retirant to reimburse the ERS for administrative expenses incurred in responding to the violation, to the extent the retirant is determined to be at fault.

Previously, concerns were raised regarding the need to amend the Bill to incorporate an appeals process if the employer or employee disagreed with an unfavorable determination made by the ERS Administrator relating to a retiree's reemployment.

We do not believe that amendments to this Bill will be needed as the ERS previously adopted a number of Administrative Rules on November 26, 2009 which includes procedures to dispute decisions made by ERS Staff. Accordingly, we request that the effective date be changed to January 1, 2011.

Thank you for the opportunity to testify on this measure.