

**HB 2533,
HD1, SD1
Testimony**

WRITTEN COMMENTS

Date: 03/31/2010

Committee: Senate Ways and Means

Department: Education

Person Testifying: Kathryn Matayoshi, Interim Superintendent of Education

Title of Bill: HB 2533, HD1, SD1 RELATING TO THE EMPLOYMENT OF EMPLOYEES' RETIREMENT SYSTEM RETIRANTS.

Purpose of Bill: Establishes conditions for reemployment of a retirant in a position that is excluded from Employee Retirement System (ERS) membership. Requires reimbursement of retirement allowances or other benefits received during the reemployment, and payment of contributions that should have been paid during the reemployment, for retirants reemployed in violation of the conditions for reemployment. Effective July 1, 2020. (SD1)

Department's Position: The Department of Education did not initially support HB 2533, HD1, SD1 because there was uncertainty as to how an adverse ruling regarding the improper hiring of retirees by the Employees' Retirement System (ERS) Administrator might impact the Department as the employer and its' employees. The Department had suggested that the law be amended to include an appeals process as part of the implementation. Since the last hearing of this bill, the Employees' Retirement System has made the Department of Education aware of an appeals process within its administrative rules in the event there is an adverse ruling. Therefore, the Department no longer opposes this bill.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

March 22, 2010

The Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means
Twenty-Fifth State Legislature
State Capitol, Room 210
Honolulu, Hawaii 96813

Dear Chair Kim and Members of the Committee:

Re: H.B. No. 2533, H.D. 1, S.D. 1, Relating to
Employees' Retirement System Retirants

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.

The Board also requests a change in the effective date to January 1, 2011.

This Bill 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.



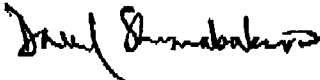
Employees' Retirement System
of the State of Hawaii

The Honorable Donna Mercado Kim
March 22, 2010
Page 2

- 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.

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