
SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT AUDITS OF STATE DEPARTMENT OPERATIONS THAT RESULT IN HIGH NON-BASE COMPENSATION OF STATE AND COUNTY EMPLOYEES, PAY FOR NOT WORKING, AND SALARY OVERPAYMENTS.

1 WHEREAS, the severe funding shortfall in Hawaii's
2 retirement system for state and county employees is partially
3 attributable to various employment and management practices that
4 result in high non-base compensation of those employees; and
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6 WHEREAS, those practices include "pension spiking" - the
7 earning of substantially increased pay above base salaries and
8 wages near the end of employees' careers that deprives the
9 Employees' Retirement System of the contributions that would
10 appropriately fund the pensions; and
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12 WHEREAS, the high non-base compensation includes payment
13 for overtime, compensatory time, differentials, and other
14 supplemental pay for supervisors and managers as well as line
15 staff; and
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17 WHEREAS, while overtime may be authorized by supervisors,
18 and some state and county services must be provided on a twenty-
19 four hour basis and fullshift coverage cannot be avoided,
20 pension spiking is one factor in creating an unfunded liability
21 of roughly \$8,200,000 for the Employees' Retirement System; and
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23 WHEREAS, the disproportionate contributions of "pension
24 spikers" toward their own pension is exacerbated by the larger
25 burden carried by those government entities with the smaller
26 percentage of pensioners who have not spiked their pensions; and
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28 WHEREAS, recent reports of state and county employees being
29 paid for extensive amounts of overtime - such as the ten
30 highest-paid emergency medical services employees in the City
31 and County of Honolulu more than doubling their annual average



1 base salary of \$63,252 to an average of nearly \$140,000 - have
2 demonstrated the seriousness of the pension spiking problem; and
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4 WHEREAS, in addition, the state Department of Public Safety
5 has reported that seventy-five employees in fiscal year 2009 and
6 twenty-five employees in fiscal year 2010 worked more than 1,000
7 hours of overtime, the equivalent of 125 eight-hour work days in
8 a year, raising questions of how employees could sustain optimum
9 performance, how these practices take place, and who
10 participates; and
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12 WHEREAS, these and other questionable personnel practices
13 impact not only the Employees' Retirement System, but have a
14 broader fiscal impact; and
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16 WHEREAS, a recent investigation revealed that the State has
17 overpaid its employees more than \$2,000,000, with hundreds of
18 thousands more in state tax dollars written off as uncollectable
19 and other incorrect pay amounts recovered months or years later
20 from employees who were mistakenly paid too much; and
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22 WHEREAS, as of December 31, 2011, the overpaid wage balance
23 owed to the State by its employees was more than \$1,587,393,
24 with some of these payments dating back to 1994; and
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26 WHEREAS, the problem has persisted for so long that many
27 state employees have retired or died while still owing the State
28 thousands of dollars that they were overpaid in error; and
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30 WHEREAS, as a result of the release of this and other
31 information, legislators have received numerous constituent
32 communications reporting government employee practices such as
33 suspected abuse of sick leave; failure to report to work for
34 prolonged periods of time, which has not resulted in denial of
35 holiday pay, but in fact resulted in credit for vacation and
36 sick leave as well; the manual nature of record keeping of
37 government employees' presence or absence from work; the
38 vandalizing of a prior attempt by one state department to
39 automate employee record keeping; and other practices that
40 strain credulity and have led to growing public outrage; and
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42 WHEREAS, some of these public employee practices have been
43 cited by directors and other top level managers as negotiated



1 through the collective bargaining process and, therefore, have
2 been treated as acceptable employee compensation practices; and
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4 WHEREAS, while the focus of the investigative reporting has
5 been on a limited number of government agencies, there is a
6 strong possibility that similar practices are occurring
7 throughout state and county government; and
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9 WHEREAS, further information is needed to accurately assess
10 the cost to taxpayers, the short- and long-term impact on the
11 Employees' Retirement System, and how to address the problems;
12 now, therefore,
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14 BE IT RESOLVED by the Senate of the Twenty-sixth
15 Legislature of the State of Hawaii, Regular Session of 2012, the
16 House of Representatives concurring, that the Auditor is
17 requested to conduct audits of state department operations that
18 result in high non-base compensation, pay for not working, and
19 salary overpayments, including:
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- 21 (1) A review of the use of overtime pay, and any excessive
22 use of sick leave and other forms of compensation such
23 as compensatory time, which may contribute to
24 increased non-base compensation for employees, and the
25 impact of the use of such non-base compensation on
26 pension payments;
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- 28 (2) A description of any specific instances of "pension
29 spiking";
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- 31 (3) An identification of any patterns of abuse of non-base
32 compensation by employees or their supervisors;
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- 34 (4) An identification of such practices as failure to
35 report to work nevertheless resulting in current
36 compensation and leave credits and in future favorable
37 impact on pensions;
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- 39 (5) The full extent of overpayments to state employees,
40 the total amount repaid, amounts still eligible for
41 repayment, and amounts deemed uncollectable, by
42 department;
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- 1 (6) Efforts by the State to resolve the overpayments
2 through timely and aggressive collections;
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- 4 (7) A review of state agencies' personnel policies
5 regarding overtime, sick leave, leave without pay, and
6 other forms of compensation;
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- 8 (8) A review of collective bargaining agreements that
9 address pay for not working; and
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- 11 (9) Recommendations as appropriate; and
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13 BE IT FURTHER RESOLVED that in conducting the audits, the
14 Auditor may focus the initial efforts on those departments that
15 have been identified as paying substantial non-base compensation
16 to employees; have employees in bargaining units with collective
17 bargaining contracts that enable such payments to occur; or have
18 demonstrated contract management practices resulting in a
19 pattern of overpayment of employees; and
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21 BE IT FURTHER RESOLVED that the Auditor is requested to
22 submit findings and recommendations to the Legislature no later
23 than twenty days prior to the convening of the Regular Session
24 of 2013; and
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26 BE IT FURTHER RESOLVED that certified copies of this
27 Concurrent Resolution be transmitted to the Governor, the
28 Auditor, and the Administrator of the Employees' Retirement
29 System.

