

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 2750  
S.D. 1  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 2750, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM, "

begs leave to report as follows:

The purpose of this measure is to address the Employees' Retirement System's unfunded liability by amending the law regarding the calculation of a member's average final compensation, to prevent pension spiking. Specifically, among other things, this measure:

- (1) Requires a public employee's or former public employee's last state or county employer to pay to the Employees' Retirement System the present value of additional benefits resulting from pension spiking; and
- (2) Limits the amount of compensation to be considered in an Employees' Retirement System member's average final compensation benefit calculation, by excluding from the calculation formula, late career compensation spikes that are attributable to non-base pay compensation, including overtime.



The Office of the Governor, Department of Budget and Finance, and Employees' Retirement System Board of Trustees testified in support of this measure. The Department of Budget and Fiscal Services of the City and County of Honolulu and Department of Human Resources of the City and County of Honolulu testified in support of the intent of this measure. The Honolulu Police Department; State of Hawaii Organization of Police Officers; United Public Workers, AFSCME, Local 646, AFL-CIO; University of Hawaii Professional Assembly; Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO; Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO; and a concerned individual testified in opposition to this measure. The Honolulu Fire Department and Emergency Services Department of the City and County of Honolulu provided comments.

Currently, the Employees' Retirement System has an unfunded liability of approximately \$8,164,000,000 that is continuing to grow. A number of factors have contributed to the System's unfunded liability, including the action of pension spiking, which is a process whereby a public sector employee significantly increases the employee's retirement compensation, through overtime or other similar opportunities, in the years immediately preceding retirement so that the resultant pension is abnormally inflated in comparison to the pension that the employee would otherwise receive without the late career overtime compensation. According to the Employees' Retirement System, if an employee's pay increases in an abnormal manner in the final years of employment, the employee's retirement benefits, which are based on the employee's three or five highest paid years, can be increased dramatically without providing the System with sufficient investment time or moneys to fund the increased pension. In turn, this spike in compensation increases the unfunded actuarial accrued liability of the Employees' Retirement System.

Your Committee understands the issues facing the Employees' Retirement System in addressing its actuarial accrued unfunded liability but notes that this is a difficult issue with many moving parts and numerous factors affecting the bottom line. While your Committee understands the concerns raised that this measure may inadvertently affect those public employees who are required to work overtime due to their employment status and notes that management of various departments or agencies must play a larger role in addressing the factors that lead to overtime costs within their departments or agencies, your Committee finds that it is important to take appropriate measures now to protect the



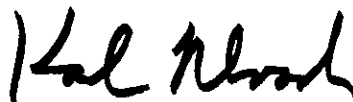
Employees' Retirement System and its members and that this is a first step in addressing the unfunded liability facing the System.

Your Committee has amended this measure by:

- (1) Changing the threshold in the calculation of dividing the employee's or former employee's average final compensation non-base pay ratio by the comparison period non-base pay ratio to determine if pension spiking has occurred from 120 to 135 percent;
- (2) Adding a severability clause;
- (3) Changing its effective date to July 1, 2012; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2750, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2750, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



---

KARL RHOADS, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

*HSR 1202-12*

**Record of Votes of the Committee on Labor & Public Employment**

Bill/Resolution No.: <i>SB2750 SD1</i>	Committee Referral: <i>LAB, FIN</i>	Date: <i>3-20-12</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)	/			
3. AQUINO, Henry J.C.	-			
4. CULLEN, Ty	/			
5. ICHIYAMA, Linda	/			
6. LEE, Marilyn B.	-			
7. LUKE, Sylvia			/	
8. SAIKI, Scott K.				-
9. SOUKI, Joseph M.				-
10. TAKUMI, Roy M.	/			
11. FONTAINE, George R.		-		
12. JOHANSON, Aaron Ling		/		
<b>TOTAL (12)</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>2</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small style="margin-left: 100px;">committee acronym(s)</small>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				