HB1092
TESTIMONY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
HOUSE BILL NO. 1092, H.D. 1

March 21, 2011

RELATING TO TAXATION

House Bill No. 1092, H.D. 1, amends Chapters 88 and 235, HRS, to temporarily limit the exemption from income taxes of employer-funded pension income of taxpayers with federal adjusted gross income of: (1) less than $100,000 for a taxpayer filing a single return or a married person filing separately; (2) less than $150,000 for a taxpayer filing as a head of household; or (3) less than $200,000 for a taxpayer filing a joint return or as a surviving spouse. The bill also makes the deduction for state taxes paid, inoperative for the same taxpayers. The temporary limitation on the exemption and the state deduction is applicable for tax years beginning after December 31, 2010 through December 31, 2012.

The Department of Budget and Finance supports the intent of this proposal. However, we strongly believe that lower exclusion thresholds on pension incomes than provided for in this bill need to be considered to address the general fund budget shortfall. We also believe that these amendments should be permanent.

We defer to the Department of Taxation regarding technical issues of the bill.

PROPOSED AMENDMENT TO HB 1092 HD 1

TO : COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

FROM: Eldon L. Wegner, Ph.D.
Policy Advisory Board for Elder Affairs

HEARING: 8:30 am Monday, March 21 2011
Conference Room 415, Hawaii State Capitol

SUBJECT: HB 1092 HD1 Relating to Taxation

POSITION: PABEA supports the intent of HB 1092 HD1. However, we suggest the following amendment:

Exemption of employer pensions would be limited to $37,500 of pension income. Pension income above this limit would be taxable income for the State of Hawaii.

Rationale:

- The current draft uses an arbitrary ceiling, below which no pension is taxed and above which the entire pension is taxed – rather than a sliding scale which would tax only pension income above a ceiling.
- The current draft taxes too few retirees – all retirees continue to benefit from public services and have an obligation to support the larger community. Only retirees with very low incomes should be exempt from taxation.
- The current draft only raises $17 million – much lower than the projected $115 million of the Governor's proposal. The state is in dire need of more revenue to avoid cutting programs which are critical to the most vulnerable in our community.
- In the present crisis, spreading the tax burden, where everyone contributes a little, is the only equitable way to meet the challenge facing us.

We urge you to have the political courage to address the structural changes needed in our tax system not only to meet the current crisis but the assure long-term viability of the state's revenues.

HSTA
HAWAII STATE TEACHERS ASSOCIATION
Teaching Today for Hawaii's Tomorrow

1200 Ala Kapuna Street ⅄ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ⅄ Fax: (808) 839-7106 ⅄ Web: www.hsta.org

TESTIMONY BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND LABOR

RE: HB 1092, HD1 - RELATING TO TAXATION.

March 21, 2011

WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Hee and Members of the Committee:

The Hawaii State Teachers Association (HSTA) opposes HB 1092, HD1, which provides for the taxation of pension income.

HSTA believes this bill unfairly targets retirees' pensions and that any tax on pensions should be excluded. HSTA also opposes the use of federal adjusted gross income to determine whether or not a person's pension is taxed. This approach disregards the actual size of the pension income and thus includes all of the retiree's income to determine if the pension will be taxable for state income tax.

HSTA has concerns about the permanent loss of the state's exemption of all retirement income from taxation.

Thank you for the opportunity to testify

Ms. Jo Ann C. Kocher
7124 Naakea Street
Honolulu, HI 96825
March 17, 2011

Testimony regarding HB 1092

I am submitting testimony to the JDL Committee regarding the provision in this bill that deals with the taxation of pensions. I am not requesting that you vote against taxing pensions entirely. Although I agree with others who believe it is unfair to the retirees who calculated their income after retirement on the basis that they would not be taxed on their pensions, I realize we are facing unprecedented financial difficulties. As a federal retiree, I am willing to do my fair share to help our state get out of its economic problems. The key words, however, are fair share. HB 1092, as it currently stands, is extremely unfair, especially to single filers.

HB 1092 currently taxes the pensions of retirees who have federal adjusted gross income (AGI) of $100,000/$150,000/$200,000 or above, depending on filing status. This means that individuals with an AGI of $99,999/$149,999/$199,999, again depending on filing status, would not pay a cent in taxes on their pensions. However, individuals with an AGI of one dollar more would be taxed on their entire income, including all of their pensions. This is inequitable. If a retiree is close to the threshold amount, he/she might have to quit a full or part time job or refuse employment solely to avoid the tax, which could amount to $10,000 a year or more. This could seriously impact a retiree's ability to deal with unexpected expenses or save for future emergencies. A retiree, if he/she decides to continue to work and exceeds the threshold, might have to work two or three months just to pay the tax.

I also question the large difference in the thresholds between single, married and surviving spouse taxpayers. It is well known that it does not cost twice as much for two people to live in a household as one person, especially since the largest expenditure is usually the mortgage. The current thresholds are very unfair to single filers. I may be required to pay substantial taxes on an AGI of $100,000 while married friends or a single friend who is a surviving spouse could earn up to $199,999 without incurring any tax at all. I seriously doubt their monthly expenses are that significantly higher than mine.

I respectfully ask that you consider the inequities and ramifications of this bill, as it currently stands. If pensions absolutely must be taxed, please consider taxing pension income that exceeds certain thresholds, not AGI. HB 1092 HD1 PROPOSED B would be an example of this. Another alternative would be to include a reasonable exclusion of part of the pension in whatever bill you put forward.

Thank you for the opportunity to express my opinion. Please feel free to contact me via e-mail at Tiger2Balm@aol.com or at 808 395 1300.

Jo Ann C. Kocher

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 7:19 AM
To: JDLTestimony
Cc: popek0522@hotmail.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position:
Testifier will be present: No
Submitted by: Kevin M. Pope
Organization: Individual
Address:
Phone:
E-mail: popek0522@hotmail.com
Submitted on: 3/18/2011

Comments:
One of the reasons I retired to Hawaii was that there is no tax on my military pension, as there is my original home state of California. I love Hawaii, but will seriously consider moving to a less "taxing" state if you pass this law in any form. The answer to Hawaii's budget problems is to rein in spending! Times are tough all over, and new taxes will just drive peole to seek other places to live, resulting in more loss of revenue for the state.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 8:30 AM
To: JDLTestimony
Cc: jkmoorej@aol.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: John K. Moore
Organization: Individual
Address:
Phone:
E-mail: jkmoorej@aol.com
Submitted on: 3/18/2011

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 10:41 AM
To: JDLTestimony
Cc: carold2654@hawaiiantel.net
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Carol Ann Denis
Organization: Individual
Address:
Phone:
E-mail: carold2654@hawaiiantel.net
Submitted on: 3/18/2011

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 10:43 AM
To: JDLTestimony
Cc: hakamine@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Harry Akamine
Organization: Individual
Address:
Phone:
E-mail: hakamine@hawaii.rr.com
Submitted on: 3/18/2011

Comments:

Senate Committee on Judiciary and Labor
Monday March 21, 2011
8:30 am

HB 1092, HD 1, Relating to Taxation.

Dear Chairman Hee and Committee Members:

On behalf of the University of Hawaii Professional Assembly (UHPA), our union opposes this legislation which would tax pension income. UHPA has raised many concerns regarding piecemeal measures that are utilized to address revenue shortfalls absence of a full assessment of impact and unintended consequences. UHPA members continue to be concerned that the revenue and tax system is neither equitable nor fair.

UHPA urges the committee to reject HB 1092, HD 1.

Respectfully submitted,

Kristeen Hanselman
Associate Executive Director

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

1017 Palm Drive • Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 • Facsimile: (808) 593-2160
Web Page: http://www.uhpa.org

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 1:43 PM
To: JDLTestimony
Cc: pamleesmith@gmail.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Pam Smith
Organization: Individual
Address:
Phone:
E-mail: pamleesmith@gmail.com
Submitted on: 3/18/2011

Comments:
I am opposed to HB1092. My taxable income falls well below the $200,000 allowed for a couple, but we know how the system works. First you exempt 200,000, then 100,000 then 50,000. Before we know it you will be taxing ALL pensions. People choose the place they retire to based on many things, but an important consideration is the tax structure. With the taxes that the state and Honolulu county have started piling on we will soon have no choice but to find another place to live. At that point you will lose all of the taxes you have been collecting from us. Kupuna that cannot easily leave the islands could be forced to apply for food stamps and other assistance from the state.
Don't start this. Leave pensions alone.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax on certain pension income

BILL NUMBER: HB 1092, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that beginning after December 31, 2010 pension income under HRS sections 88-91, 235-7(a)(2), and 235-7(a)(3) shall be excluded from state income taxation if a taxpayer's **federal** adjusted gross income (FAGI) is: (1) less than $100,000 for a taxpayer filing a single return or a married person filing separately; (2) less than $150,000 for a taxpayer filing as a head of household; or (3) less than $200,000 for a taxpayer filing a joint return or as a surviving spouse.

Amends HRS section 235-2.4(h) to provide that the deduction for state taxes **shall not be operative** to corporate taxpayers and **shall be operative** if a taxpayer's **federal** adjusted gross income (FAGI) is: (1) less than $100,000 for a taxpayer filing a single return or a married person filing separately; (2) less than $150,000 for a taxpayer filing as a head of household; or (3) less than $200,000 for a taxpayer filing a joint return or as a surviving spouse.

The amendments made to HRS section 235-7(a) by this act shall not be repealed when that section is reenacted on January 1, 2013 by Act 166, SLH 2007.

EFFECTIVE DATE: Tax years beginning after December 31, 2010

STAFF COMMENTS: While Hawaii does not currently tax pension income, this measure recognizes those who depend on that pension income for their basic needs by setting a floor before pension income is to be included in gross income for state income tax purposes. As proposed by this measure, this "floor," or threshold, is set at $100,000 of federal adjusted gross income for individuals, $150,000 for heads of households, and $200,000 for those filing a joint return.

The problem with using "federal adjusted gross income" is that not only does it already include pension income but it may also include one-half or more of the taxpayer's Social Security benefits. Thus, this proposal not only changes the policy regarding the taxation of pension income, but it also changes the policy with regard to the taxation of Social Security benefits. It is not that the state tax will be levied on Social Security benefits per se, but because federal adjusted gross income includes Social Security benefits which then define whether or not one's pension becomes taxable for state income tax purposes, it has an indirect effect of taxing those benefits. This approach also ignores the actual size of the retiree's pension income as exceeding the threshold or floor and throws all of the retiree's income on the table in determining whether or not one's pension will be taxable for state income tax purposes.

So, the retiree may have been employed at a business where the pension plan met the bare minimum requirements of the law and the contributions to the plan may have been relatively small in favor of paying more generous wages. That retiree, being prudent, set aside some of those generous wages either in savings or purchased equities to provide for his or her retirement. As a result, the earnings of those savings and investments provide for the bulk of the retiree's income. Because these sources of income are included along with what might be considered a pittance of pension income, the retiree exceeds the threshold subjecting all of the pension income to the state income tax. On the other hand, another retiree's only source of income is his pension, but that pension falls just below the proposed threshold of federal adjusted gross income and thus escapes any state income tax. It would seem fairer that if pension income is now to be taxable for state income tax purposes, the threshold be measured only against the form of income called pensions. Treatment of this form of income would be identical regardless of other sources of income and regardless of the federal definition of income.

Of the forty-four other state which levy a state personal income tax, 18 states set a dollar floor amount with the most generous being Michigan at $45,120 followed by Kentucky which grants a $41,110 floor before pension income is subject to state taxes in the Bluegrass State. Of those states with income taxes, 17 states tax pension income from dollar one with no exclusion, four states, including Hawaii, tax some form of retirement income and four states completely exempt all retirement income.

Further, it should be noted that of the exclusions listed under HRS 235-7 where the pension exclusion is currently lodged, the exclusion applies to amounts of the types of income excluded. For example, in the case of income received by components of the army reserve and national guard, it is specific dollar amounts that are excluded from the state income tax. None of these excluded amounts are contingent upon the taxpayer's adjusted gross income. Thus, it would seem only consistent and fair that an amount of pension income be excluded as opposed to the method proposed which would make one's entire pension subject to tax if the taxpayer's FAGI goes over the threshold by a single dollar.

That said, one has to ask why has it come to this point that the state has to tax a source of income that traditionally has been exempt? All taxpayers, both workers and retirees, must share the blame as few paid attention to how lawmakers frittered our tax dollars away on this or that program. Now that many of those programs and services lawmakers initiated in the last few years have constituencies, it has been difficult for lawmakers to rein in that spending. The swift and vehement rejection of the proposal to tax pensions lies not so much in the fact that it will now tax income that was formerly exempt as much as it is the fact that taxpayers already reel under the heavy burden of taxes in Hawaii. As one senior noted, "What have lawmakers been doing with all the taxes we pay? "

While a previous draft of this measure eliminated the deduction for state taxes paid for all taxpayers, this draft retains the deduction for taxpayers whose FAGI is: (1) less than $100,000 for a taxpayer filing a single return or a married person filing separately; (2) less than $150,000 for a taxpayer filing as a head of household; or (3) less than $200,000 for a taxpayer filing a joint return or as a surviving spouse.

Although the state administration may argue that the federal Code does not allow for the deduction of federal income taxes withheld, it should be remembered that the federal code does allow for the deduction of state income tax paid and withheld. In its effort to conform as closely as possible with the federal definition of income, the state picks up this provision which recognizes that to **NOT** allow the deduction of state income taxes withheld and paid would be to impose the state income tax on state income taxes. That said, if the intent is to generate additional revenue from the state income tax, then lawmakers should just raise rates which is much more honest. Lawmakers should remember why the to the federal law, to reduce administrative and compliance costs for both the tax department and the taxpayer. Falling out of conformity merely increases the cost of compliance and should be viewed as an additional "tax" imposed by policymakers.

If the sole intent of eliminating the deductibility of state income taxes is to generate additional monies for the general fund, then an implicit increase in income tax rates would certainly be more honest. No doubt taxpayer's income tax liability will rise should this deduction be eliminated, the same could be accomplished with an increase in rates. The difference is that taxpayers would know that lawmakers increased income tax rates. With the elimination of the deduction it would cause an increase in the taxpayer's bill without setting out that the reason was the loss of the deduction. Given that Hawaii's standard deduction is so law, taxpayers in Hawaii are more likely to itemize than in other states because income taxes are so high along with the cost of housing that drives up the mortgage interest deduction and the fact that people in Hawaii tend to be more generous and, therefore, have more charitable contribution deductions than income taxpayers in other states. Therefore, the elimination of the deductibility of state income tax amounts to nothing more than an income tax increase for which lawmakers should shoulder the responsibility.

While this and other "revenue enhancement" measures are proposed to address the state budget deficit, it should be remembered that the adoption of this and other similar "revenue enhancement" measures will not be effective unless government expenditures are also curtailed.

Digested 3/18/11

I am Jenny Howard, a retired teacher with 38+ years of service in the Department of Education. I oppose the proposed tax regulation on retiree pensions described in House Bill 1092 [Senate Bills 1319 and 162]. To clarify, while I was relieved to see that the version of HB1092 currently under consideration does not support taxation of middle-income pensions such as mine, I have remaining concerns which are bulleted below.

-Most people, regardless of their income bracket, make the decision to retire with certain assumptions based on provisions and laws in effect at the time. To now impose state income tax on pensions of retirees in higher income brackets changes, for them, the rules in the middle of the game. Even though it does not affect most retirees at the moment, it is, in reality, a deal breaker and, as such, is cause for alarm for all retirees, as well as for many workers contemplating retirement in the near future. The current state law which allows qualified pensions and Social Security benefits to remain untaxed, is one of the very few things that make retirement in Hawai'i financially feasible.

- There is contradictory language within the bill. The rationale stated in this legislation is that it provides equity among retired taxpayers with various kinds of retirement income. However, as I understand the language in the bill, a pensioner whose federal AGI is just above the designated threshold, would pay state income tax based on that person's entire federal AGI, while someone whose AGI is just under the threshold would not be affected by the provision at all. I don't view that as a move toward equity.

-What has been explained publicly in news editorials, as well as by the Governor, is not supported by the language in the bill. For example, Gov. Abercrombie has repeatedly stated that Social Security will not be taxed. However, for retirees in higher, and even middle, income brackets, the federal AGI includes 85% of Social Security income. If the federal AGI is to be used to determine whether or not a pension is taxable, Social Security income would, in effect, be taxed.

-A tax on higher-income pensions may not effectively serve as a reliable source of revenue. Tax officials are estimating that, if passed, this legislation would generate certain levels of yearly revenue depending on which thresholds are adopted. However, it must be considered that many higher incomes retirees have a certain amount of "financial savvy." Understandably, they will adjust their expenditures and financial resources, such as 401Ks, to at least partially offset the effect of the added tax on their pensions, and this will result in less revenue.

-A possible dire consequence of this taxation is that retirees who stand to be taxed the most may leave Hawai'i. This would leave the state without the revenue generated by various taxes these retirees now pay, as well as the anticipated pension tax revenue. Businesses and organizations would also be adversely affected, and we would lose the many non-monetary contributions these people make to our community.

-And, how are all those "baby boomer <u>about-to-be</u> retirees" going to respond to this tax? Concerned that pensions are now "fair game" for state taxation, some, or many, may postpone retirement in order to acquire more years of service to offset the long-term cost of the tax. While in the public sector these postponements would provide a short-term respite for the retirement system, they certainly would not help balance the state budget. Employees near retirement have salaries that are at the top of the scale, costing the state much more than entry level salaries for new employees.

- For the reasons stated above, I don't believe a pension tax will provide an equitable or practical solution for the state budget problem. If additional taxes are needed, I think the burden should be spread among most taxpayers, leaving individual taxpayers less severely impacted.

Your consideration of this matter is appreciated.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 4:30 PM
To: JDLTestimony
Cc: rdcrist@gmail.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Robert Crist
Organization: Individual
Address:
Phone:
E-mail: rdcrist@gmail.com
Submitted on: 3/18/2011

Comments:
Until the state government is serious about reducing the cost of government taxpayers should not be asked to pay more. Real leadership requires hard choices and none are being made. Adding taxes is a last ditch effort not the first thing you do. Cut cost and then talk to us about helping "paddle the canoe"

TO CLAYTON HEE, CHAIR, JUDICIARY AND LABOR COMMITTEE
MAILE SHIMABUKURO, VICE CHAIR
COMMITTEE MEMEBERS MIKE GABBARD, LES IHARA, SAM SLON

Subject HB 1041, HD2 RELATING TO TAXATION

This Bill, introduced by Governor Abercrombie, is to obtain funds via taxation of retired State and City workers pension. The government's claim of equity in taxation singles out one group of taxpayers unfairly. We worked in this arena because of the benefits upon retirement and plans were made because of these promises made via the pension program and tax laws. To change it means I should have made other budgetary adjustments during my employment years. Unfortunately my time with the City has since expired and I cannot go back in time to make corrections. If you need to change the tax laws, then do it to new hires as we retired persons have a short period of years left on this earth. We have paid our taxes, donated time, labor and money for numerous programs to benefit our fellow citizens.

I would support an increase in the excise tax, as this would be across the board to everyone along with reduction in spending of government programs and not an increase to create jobs. Government should not create jobs but provide the atmosphere in which private industry may flourish.

I urge you to oppose HB 1092, HD2.

Thank you for this opportunity to testify.

John Lum

45-545 Keole Street
Kaneohe, Hi
96744
Email johnrlum@hawaii.rr.com

HB1092 – Relating to Taxing Pensions

Senate Judiciary & Labor Committee
Senator Clayton Hee, Chair, & Committee Members:

I strongly oppose the Bill taxing pensions. Once enacted, this would be the first step in eliminating the 'threshold' amount in the future, to eventually taxing every pension dollar.

I, and other retirees, planned very carefully for our future to the point where we wouldn't need to depend on the State for Medicaid/quest, food-stamps, housing allowance/section 8, and the such.

We now live on a fixed income and we adjust while the cost-of-living keeps rising. We make sacrifices too.

The new tax bill will affect the quality of life for me, and others like me. We did not expect this expense.

I understand the intent of trying to balance the budget, but do it across the board. Raise the excise tax and look for waste in State programs.

Thank you for the opportunity to submit this testimony.

Karen J. H. Lum
45-545 Keole Street
Kaneohe, Hawaii 96744

The Twenty-Sixth Legislature, State of Hawaii
The Senate
Committee on Judiciary and Labor

Testimony by
Paul T. Matsuo, President
Oahu Chapter, HGEA Retirees Unit

March 21, 2011

H.B. 1092, H.D. 1, Proposal A –
RELATING TO TAXATION

The Oahu Chapter, Hawaii Government Employees Association (HGEA) Retirees Unit, Chapter 152, HGEA/AFSCME, AFL-CIO strongly opposes the intent of H.B. 1092, H.D. 1, Proposal A. The bill seeks to tax the pensions of those retirees whose reported federal adjusted gross income is $100,000 or more for individuals and married retirees who file tax returns separately; $150,000 or more for heads of households; and $200,000 or more for joint filers or surviving spouses, effective January 1, 2011.

While this bill will affect relatively few of our Chapter's 6,800+ members, as presently written, we feel that we must strongly speak out against this bill. This bill will " open the door " for future legislation that will adversely impact our membership and all retirees in the State. The Oahu Chapter's concern is that this current bill will be the first step toward generating more tax revenue for the Abercrombie administration's fiscal year 2012-2013 and beyond.

Historically once a tax is enacted, it rarely is reduced or repealed. It just opens the flood gates to generate additional revenues. We propose that a sunset date of 2014 for this bill be included as assurance to cover only the State's budget shortfall period.

Furthermore, taxing pensions of our Chapter's retirees may violate the provisions of Article XVI, Section 2 of the Hawaii State Constitution in that, it diminishes or impairs the pensions that our retirees have accrued from their governmental service. Also federal law prevents taxing of pension for "snow boarders" that are not Hawaii residents further reducing the taxable pension pot.

Finally, we are opposed to using federal adjusted gross income as the basis to determine the tax as it includes tax refunds and social security benefits. The bill should be amended to provide only qualified pension income be used to determine the tax.

Respectfully submitted,
Paul T. Matsuo, President
Oahu Chapter, HGEA Retirees Unit

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 7:36 PM
To: JDLTestimony
Cc: johngaillau@hawaiiantel.net
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Johnson Lau
Organization: Individual
Address:
Phone:
E-mail: johngaillau@hawaiiantel.net
Submitted on: 3/18/2011

Comments:
I am a State government retiree and opposed to this bill.
This bill proposes to impose an income tax on individuals receiving a pension for past services above a certain threshold based on their filing status.
The taxation of pension income is a major tax policy change that will have an significant impact on the quality of life of retirees who worked all their life to achieve a secure future.
As for retirees and beneficiaries receiving benefits from the Hawaii Employees Retirement System (ERS), the imposition of income tax on pension income would violate Article XVI, section 2 of the Hawaii Constitution, which prohibits the impairment or diminshing of benefits received from the ERS.
As drafted, this bill is inequitable because an individual's entire pension income would be taxed if it is just $1.00 over the threshold, while not subject to tax at all if an individual's federal adjusted gross income (AGI) is under the threshold. For example, a single filer with a federal AGI of $100,001, would be liable for income tax on their entire federal AGI. For equity purposes, this individual should be able to exclude $100,000 of pension income like all other taxpayers under this threshold. If this bill is passed, it is suggested that this bill be amended to to treat all taxpayers equitably.
Based on federal AGI thresholds in this bill, Social Security benefits would be taxed because these benefits would be included in federal AGI.
Once the slippery slope of taxing pension income is established, with events like the recent downward revenue forecast by the Council of Revenues and the natural disaster in Japan, it is not difficult to envision the taxation of every cent of pension income to help balance the State budget.
Since retirees did not cause the budget shortfall, this bill is inherently unfair to retirees.
Thank you for the opportunity to submit testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 8:57 PM
To: JDLTestimony
Cc: Ken_Conklin@yahoo.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Kenneth R. Conklin, Ph.D.
Organization: Individual
Address:
Phone:
E-mail: Ken_Conklin@yahoo.com
Submitted on: 3/18/2011

Comments:
I know there's a very large gap between revenues and expenditures.

That gap is NOT caused by taxes being too low. The gap is caused by expenditures being too high.

For many years this legislature has received the prediction of the Council on Revenues, and you have then figured out how to spend every last penny. Then, if there comes a time when next year's revenue is expected to fall below currently established expenditure levels, you have chosen to raise taxes to maintain expenditures rather than to cut the budget.

STOP THIS CRAZINESS. STOP GRABBING MY MONEY TO SUPPORT THE BLOATED BUREAUCRACY THAT YOU HAVE ALLOWED TO GROW OUT OF CONTROL.

I oppose raising ANY taxes until such time as the legislature has balanced the budget with already-existing revenues. I call upon you to reduce the size of government by eliminating entire programs and cutting the size and scope of other programs, until the budget has been balanced. Then, and only then, would I support raising taxes for specific purposes, and only if it is guaranteed that the new taxes will actually be used for those specific purposes and not "raided."

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 10:17 PM
To: JDLTestimony
Cc: cchung1@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Clayton Chung
Organization: Individual
Address:
Phone:
E-mail: cchung1@hawaii.rr.com
Submitted on: 3/18/2011

Comments:
I am against the taxing of pensions in the state of Hawaii. Our state government must be careful not to burden our senior citizens with additional cost during their golden years. Be mindful of our seniors.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 11:19 PM
To: JDLTestimony
Cc: moriokar001@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Roy & Carmencita Morioka
Organization: Individual
Address:
Phone:
E-mail: moriokar001@hawaii.rr.com
Submitted on: 3/18/2011

Comments:
We strongly oppose this bill as we ask that you consider those of us who are retired and on fixed incomes facing rising utility bills, taxes, fuel and food costs that are challenging us who were once looking forward to our retirement years without having to burden our children or for that matter the State and Federal governments in order to simply survive.

However, should you decide to go forward with this bill, please know that there those like us who either have a child, spouse or parent(s) in need of costly special care in addition to the rising costs noted above. Please include the provision of an exemption or line item deduction for these extraordinary costs.

Thank you for your serious consideration of our situation.

Respectfully Yours,
Roy N. and Carmencita V. Morioka

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2011 11:45 PM
To: JDLTestimony
Cc: kaneohecarol@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Carol Thomas
Organization: Individual
Address:
Phone:
E-mail: kaneohecarol@hawaii.rr.com
Submitted on: 3/18/2011

Comments:
As a retiree on a fixed income with no increase in social security benefits,a mortgage to pay, increases in electricity, sewer fees, medical and food, this taxation bill will greatly impact my family. It's even more worrisome that this Bill may pass with a lower AGI than is now stated.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 12:50 AM
To: JDLTestimony
Cc: mdinn511@hotmail.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Michael W. Dinneen
Organization: Individual
Address:
Phone:
E-mail: mdinn511@hotmail.com
Submitted on: 3/19/2011

Comments:
I oppose this law on the grounds that Hawaii has a high cost of living and it will push military retirees out of the state. The military is the second largest factor in Hawaii's economy and to push people to other states that do not tax military retirees is a bad idea. The states that do not tax retires have seen their numbers grow and it has proven a postive factor in their economy, I would suggest this is a better path to take.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 11:12 AM
To: JDLTestimony
Cc: rechnitz@hawaii.edu
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Garry Rechnitz
Organization: Individual
Address:
Phone:
E-mail: rechnitz@hawaii.edu
Submitted on: 3/19/2011

Comments:
I believe this bill is flawed because it is based on federal adjusted gross income (AGI). AGI includes Social Security payments and other federal income not subject to Hawaii income tax .

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 11:14 AM
To: JDLTestimony
Cc: arakakie003@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Earl Arakaki
Organization: Individual
Address:
Phone:
E-mail: arakakie003@hawaii.rr.com
Submitted on: 3/19/2011

Comments:

HOUSE BILL 1092 HD2
SENATE JUDICIARY AND LABOR COMMITTEE
March 21, 2011, Monday
TESTIMONY IN OPPOSITION BY
Earl Arakaki, Retired, Honolulu Police Department

Senator Hee, and members of the Senate Judiciary and Labor Committee.

I testify in strong opposition to all forms of House Bill 1092.

Governor Abercrombie describes the states budget situation by using the analogy that everyone needs to paddle a sinking canoe implying pensioners are not paddling.   That is not true.

The Governor said "our canoe is being swamped." When a canoe is in danger of being swamped you take a bailer and lighten the load. Not increase the load by submitting a bloated state budget.   The canoe is sinking and the Governor wants to increase the load at the expense of retirees in the form of a tax on pensions.

After decades of excluding all pension income, the Governor now says it is time to make the tax code "fair." The Governor says "we are all in the same canoe…" implying elderly pensioners are not doing their share and we are sitting with our arms folded as others paddle. I have been paddling his proverbial canoe for over 50 years via various state taxes. I was unaware I wasn't paying my share until Governor Abercrombie said so. Like all citizen-paddlers, retiree-paddlers pay GET including money for rail on everything we purchase. However, after decades of paddling, retiree-paddlers tend to need medical attention more than when they were younger and are taxed for getting sick when visiting the doctor, then taxed for prescription drugs, taxed for vision care, taxed for dental care.   Since retiring I pay increased taxes for food, increased taxes for gasoline, pay the highest electricity rates in the country, higher property tax, higher sewer fees, increases in vehicle registration which will again be increased this year. I paid a GET when I purchased a cell phone and now pay a monthly 911 fee. Also, deposit fees on my beverage containers.   Now you want to take away 10 percent of my accrued benefit pension income that I earned with 28 years of service with the Honolulu Police Department. Where am I supposed to replace this 10 percent take away of my pension?

When I decided to retire, I sat down and carefully reviewed all of my expenses and all my income. Now that I am retired you want to take away part of my income to pay this states ever increasing expensive proverbial canoe.

Taking from retirees to balance the states budget is nothing new. House Bill 1092 continues the pattern of lawmakers jeopardizing the welfare of retirees.

This pattern started in the mid-60's to 1997, as lawmakers routinely skimmed the State of Hawaii Employees Retirement System (ERS) investment earnings over 8 percent to balance the states budget to the tune of $1.3 billion dollars.

The pattern continued in 1997, when then Gov. Cayetano and lawmakers passed Act 327 to stop skimming only to return in 1999 with Act 100 to retroactively "skim" $347 million. SHOPO sued in 2002 for the return of that money. That money has never been replaced.

The pattern continued in 1999, when Act 136 was passed "requiring all retirees and their spouses who become eligible for federal Medicare Part B medical plan coverage after June 24, 1999, to enroll in that federal benefit plan, and the Health Fund's Medicare Supplement Plan regardless if they are still working. Steering public sector retirees to an inferior health coverage from a previous superior health plan. Thus the pattern of retiree takeaways to balance the budget continues. (Hawaii Public Employees Health Fund News Bulletin July 2000, page 1)

The pattern continued in 2000, when a long-standing five-year retirement inflation adjustment was eliminated. Then Governor Cayetano said "the ERS can't afford it."   They couldn't afford it because the Legislators and Governor took $347 million the previous year.

The pattern continued in 2001, with Act 88; Claiming changes were needed to continue funding health care, politicians led by Cayetano and then Sen. Hanabusa did away with union health funds for active employees, and the Hawaii Public Employees Health Fund for other employees and retirees, and created the Employee-Union Health Benefits Trust Fund (EUTF). This moved actives and retirees from a defined benefit health plan, to a defined contribution health plan. I.e. retirees were promised the same defined health plans under the former system which "shall not be diminished or impaired" per the Hawaii Constitution, to a diminishing defined contribution health plan based on what the Gov. and Legislature appropriates to spend on health plans. I.e. They tell EUTF here is the money now go shop around. Which is the reason health coverage has eroded over the years. Less money, lesser health plan continuing the pattern of balancing the budget to the detriment of ERS retirees. This continuing pattern of using retirees to balance the budget led to a lawsuit which remains to be resolved.

The pattern continued in 2002, when Lawmakers couldn't skim the ERS anymore so exploiting the effects of 9-11, to justify the pattern of balancing the budget to the detriment of public sector retirees, Cayetano and the Legislature passed Act 147 (HB2460) to prolong the states unfunded liability payments to the ERS by extending the states unfunded liability to the ERS to 2030. By 2024 it is estimated the state will still owe the ERS $1.3 billion. From 1966 to 2000, ERS investments were good. Except for two years of negative returns on investments, 1984 (-.5%), 2001 (-6.7%).

The pattern continued in 2002, Act 128, Revamped retirement calculations requiring public workers to retire only on the first day of each month limiting "high three" calculations to calendar years, or last 36 months of employment if an employee retires at the end of the year and reduced pension payments to once a month. Those retiring after 2002 lost hundreds of dollars each month in payments.

The pattern continued in 2010, where every ERS retiree paid twice a month to be paid once a month, Another budget move via retirees.

The pattern continues to the present day. Taking advantage of a worldwide financial crisis, Gov. Abercrombie implies the unfunded liability shortfall is the fault of public sector pensioners as he attempts to continue the old pattern of balancing the states budget. In reality it was all due to decades of negligent and reckless takeaways to the detriment of public sector retirees.

In an effort to continue the pattern, House Bill 1092 to tax all pensioners is introduced. Now that this state exhausted public sector pensioners, private sector pensioners are invited to help paddle the proverbial canoe. To those private sector retirees, I say "welcome to Abercrombie's balance the budget canoe club where public sector pensioners have been paddling for a long time."

And, in the end when all pensioners cannot paddle for the Governors Canoe Club, families of pensioners will pay a General Excise Tax on the mortuary bill when we die.

Again, I ask this committee, please do not pass HB1092 in any form.

Mahalo

Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair
Judiciary and Labor

Charles T. Duncan
Honolulu Police Department, Major (retired)
94-439 Alapoai Street, Mililani Town 96789
Phone: 393-4764

March 21, 2011

In opposition of HB1092 HD1 Relating to Taxation

I'm a retired Honolulu Police Department Major who currently receives a pension from the state which is tax free after serving the State of Hawaii and the City and County of Honolulu for 32 years. I am testifying in opposition to HB1092 HD1 as it relates to Taxation.

The reason for testifying in opposition to this bill is for the following reasons;

- The Governor in a recent Star-Advertiser, Island Voices article states the "Pension tax would end preferential treatment," his determination that all retirees are obligated to "service the unfunded liability of the pension funds themselves." In saying this, he cloaks the mismanagement of state retirement funds and denies the state's responsibility for the scale of the miscalculation it has made. Taking advantage of a worldwide financial crisis, Gov. Abercrombie now attempts to continue the pattern of balancing the state's budget to the detriment of ERS retirees by telling everyone the ERS unfunded liability is in terrible shape implying it is retirees fault and retirees should feel guilty for drawing a pension. In reality it was all due to decades of negligent and reckless takeaways to the detriment of public sector retirees. When if not for the continued skimming of ERS funds over the years this would not be an issue.
- The governor instead proposes $728.6 million in spending increases in the face of a huge deficit crisis. The governor hasn't shown he's serious enough about cutting duplication, waste and unnecessary programs. Instead, his administration has placed over a third of the burden exclusively on the backs of seniors, many of whom are least able to absorb or adapt to it. This is unreasonable and not right.
- Regardless of the threshold levels, the inescapable fact is that this and other tax pension bills is still a new tax that is being sprung on retirees retroactively to Jan. 1 of this year. Affected retirees will not have enough time to plan before they have to make an unexpected tax payment in the next year. If pensioners are taxed, it should be fair and allow for a phase-in period allowing for adequate planning
- This bill and any bill that taxes pensions by using the federally adjusted gross income cause's inequities because it's an all-or-nothing tax proposition. An individual's entire pension income would be unfairly taxed if it were only $1 over a certain income threshold, while not taxed at all if it were under the threshold.
- Social Security, while technically not taxed, is taxed de facto because those benefits are included as part of the income threshold used to qualify pensions for taxation.
- If this bill is passed it will more than likely violate a contractual agreement between the State of Hawaii and each retiree as it pertains to the Hawaii Constitution (Article XVI,

Section 2) which states that accrued benefits of retirees in the state retirement system shall not be diminished or impaired. As such, the tax proposals on pensions may have legal repercussions if applied retroactively.

In conclusion Governor Abercrombie misled the voting public about taxes during his campaign and now, he is defining "the wealthy" down to what most people would consider to be the middle class. Where will this type of reasoning lead us to next? Forty years ago, the state made a deal with retirees and now he proposes to break that promise if HB1092 HD1 is passed

I humbly ask that you not pass HB 1092 HD1 out of committee in any form as a means of showing all retiree's that in Hawaii we care about our retired citizens who are living on a fixed income and will not tax their hard earned pensions.

Respectfully Submitted

PAUL J. SCHWIND
2033 Nuuanu Avenue, Apt. 22-B
Honolulu, Hawaii 96817
schwang1@hawaii.rr.com

March 21, 2011

The Honorable Clayton Hee, Chair, and Members
Senate Committee on Judiciary and Labor
Hawaii State Capitol
415 South Beretania Street, Room 407
Honolulu, Hawaii 96813 BY E-MAIL: senhee@capitol.hawaii.gov

Dear Chair Hee and Members:

Re: H.B. No. 1092 H.D. 1 Relating to Taxation

I am a retired employee of the State of Hawaii (and also a retired attorney formerly in private practice). I receive retirement pension benefits from the State. I am testifying in **opposition** to House Bill No. 1092 H.D. 1 Relating to Taxation.

As currently drafted, HB 1092 H.D. 1 would add a new section to HRS Chapter 235 and amend HRS §§ 235-7(a) and 235-2.4(h) to tax the pension income of, and make the deduction of State income tax "inoperative" for, various filers above specified income levels. This measure, if enacted, would impose a far greater burden on some retirees than that borne by other retirees and the general public. In my case, for example, the bill would increase my State tax liability by approximately ***79 percent.***

While balancing the State budget is a valid objective in these difficult economic times, doing so disproportionately on the backs of retirees is unjust and inequitable. This bill is particularly harshly inequitable because it would tax the ***entirety*** of pension income of any filer who is only ***one dollar over*** the specified federal adjusted gross income threshold, rather than tax only the amount of pension income that causes the taxpayer to be over the threshold.

HB 1092 H.D. 1 may also be defective on constitutional grounds with regard to public employee retirees. The framers of the 1950 Hawaii Constitution provided, in article XVI section 2, that membership in an employees' retirement system is a contractual relationship, "the accrued benefits of which shall not be diminished or impaired" (reinstated in the 1978 constitutional amendments). The Hawaii Supreme Court has subsequently held that "[i]t would be inconsistent with the delegates' statements and the Committee of the Whole report to conclude that the delegates intended to afford legislative flexibility to . . . *diminish or impair the benefits already accrued and contractually guaranteed.* That would be in direct conflict." *Kaho`ohanohano v. State*, 114 Hawai`i 302, 342, 162 P.3d 696, 736 (2007) (emphasis in original). Arguably, exemption of pension income from State taxation is a protected benefit of retirement in Hawaii, at least for public employees.

If all of us are to "uncross our arms" and "help paddle the canoe", by far the fairest and most effective means to enhance State revenues is to enact an across-the-board increase in the General Excise Tax (GET). Accordingly, I respectfully recommend that your Committee **hold** HB 1092 H.D. 1.

Thank you for the opportunity to express my views on this matter.

GREGORY J. SWARTZ, ESQ.
Honolulu, Hawaii 96817

December 11, 2011

The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
Senate Committee on the Judiciary and Labor
State of Hawaii 96813

Dear Chairs and Members of the Committee:

Re: H.B. No.1092, HD 1

I am totally opposed to this legislation which: (1) institutes an unfair and unjust income tax on the pensions of currently retired persons, and (2) severely limits the ability of all personal taxpayers to take an itemized deduction for State of Hawaii income taxes or excise taxes. Both of these initiatives by the State Administration will result in serious detriments to senior citizens and disabled persons. Section 1 of the bill states that this bill is designed to provide "improvements and equity among taxpayers," but is seriously inaccurate. What this legislation does is place an unfair and unjust burden on many of us seniors and disabled persons during a time that we are seriously struggling to make ends meet with the increased demands caused by the recession. There are ever raising costs of living particularly for health care and specialized housing for senior citizens and disabled persons and looming cutbacks at the Federal and State levels on health care, social security, pension and other retirement benefits. Increased tax liabilities for senior citizens and disabled persons on top of all of this is untenable.

Currently retired senior citizens planned their retirements on the basis of income and expenditure estimates (including tax estimates) which were reasonable when they retired but the State

will now throw out the window, causing serious economic harm to seniors. Disabled persons are in a much worse situation because their working lives were cut short and the disability benefits they receive through defined benefit plans are generally much less than if they reached full retirement age. It is obvious that a prime target of this legislation is State of Hawaii and county government retirees This is unconscionable. The tax exempt status of pension income was a significant factor in determining the level set for the actual pension benefits to be received by State of Hawaii and county retirees.

The State Administration has tried to support this bill by providing somewhat misleading information to the Legislature and the public. The Director of Taxation testified before the House Committee on Finance on February 25, 2011 that:

> Hawaii is one of only ten (or 20%) states that exclude all federal, state and local pension income from taxation.1 [1. The ten (10) states are as follows: Alabama, Hawaii Illinois, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, New York, and Pennsylvania.] Forty (or 80%) states taxed pension.

In reality, more States have income tax exclusions for State and local pensions to one degree or another. This was a way to allow lower pension benefits to be paid to State and local workers.

Seven (7) States (Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming) have no income tax. Two (2) other States have very limited income taxes - Tennessee (6% tax on interest and dividends from bonds and stocks) and New Hampshire (5% tax on dividends and interest) -- and thus, do not tax pension income. At least four (4) other States do not tax Federal, State or local government pensions or private pensions (Alabama, Illinois,

Mississippi and Pennsylvania).

Of the remaining 36 States with broad-based income taxes (not counting Hawaii), at least nine (9) States do not tax Federal, State and local government pensions in full or in part, but tax private pensions usually with an exemption amount (Massachusetts - government pensions fully tax exempt, Michigan - government pensions fully tax exempt ($45,120 exemption for private pensions), Missouri - government pensions are exempt up to $85,000 for single and married filing separately and $100,00 for joint filers ($25,000 exemption for private pensions of single persons, $16,000 for married filing separately and $32,000 for joint filers), Kansas - government pensions fully tax exempt, Louisiana - government pensions fully tax exempt ($6,000 exemption for private pensions if 65 or over or disabled), Kentucky - government pensions are partially tax exempt (Federal, State or local government pension amounts earned before January 1, 1998 are not taxed; all pensions, including Federal, State and local government pension amounts earned after December 31, 1997, are taxed but allowed a $41,110 exemption), New York - government pensions fully tax exempt ($20,000 exemption for private pensions), North Carolina - government pensions exempt up to $4,000 ($2,000 exemption for private pensions), and West Virginia - state and local government pension tax exemption of $2,000 ($8,000 exemption 65 or older or disabled). Of the remaining 27 States, most have exclusions or credits for pension income depending in some cases on source, age or income, including Georgia ($35,000 if 62 or over or disabled increasing to $65,000 if 65 or over in 2012), Maryland ($26,100 if 65 or over or disabled), Colorado ($20,000 below 65 and $24,000 65 and over), New Jersey ($10,000 for 62 or over or disabled if married filing separately, $15,000 if single, and $20,000 if joint filers), Delaware ($2000 below 60, $12,500 to $14,500 if 60 or over), Oklahoma ($10,000) and South Carolina ($3000 pension excision below 65 and $10,000 above 65, $15,000 exclusion for all over 65). Six states (California, Connecticut (50% military retirement exclusion), Minnesota, Nebraska, Rhode Island, and Vermont) do

not appear to allow any exclusions or tax credits for pension and other retirement income per se.

In addition to pension income, a number of States have separate exclusions for disability income including, but not limited to, Indiana, New Jersey, South Carolina, and Virginia (up to $20,000). Exclusion of disability income from State income taxes is particularly appropriate.

It is obvious that the State Administration does not fully understand the true impact of its pension tax proposal or the tax policies in other States. Originally, the Director of Budget and Finance testified that the thresholds in the State Administration's proposal were pension income thresholds rather than Federal AGI thresholds. I understand his confusion because I made a similar mistake in reviewing the two alternatives before the House Committee on Finance. In later testimony, the Director of Budget and Finance deferred to the Director of Taxation who confirmed that the thresholds in the State Administration's proposal were Federal AGI thresholds. The Federal AGI thresholds in the State Administration's original proposal, with $37,500 for single or married filing separately, $56,250 for head of household or surviving spouse, and $75,000 for joint filers, were much, much too low. The Director of Taxation testified that the "average Hawaii household income in 2008 was $66,701" and "the average Hawaii residents' pensions and annuities taxed at the federal level was $22,686." This data clearly demonstrates that, under the State Administration's original proposal virtually all pension income would be taxed. The Federal AGI thresholds in H.B. No. 1092, HD 1 are much more reasonable.

Personally, I believe that, if pension income is taxed at all, the Federal AGI thresholds should be increased even further, at least $100,000 for married filing separately, $150,000 for other single

filers and $200,000 for joint filers, respectively. As explained below, most other States do not give married taxpayers twice the amount of exclusion over single taxpayers. Disability income should be exempted entirely.

Several testifiers have shown why use of Federal AGI thresholds, instead of pension income exclusions, are unfair. Most importantly, this included the fact that a taxpayer with $1.00 over the Federal AGI threshold will have his or her entire pension taxed. In addition to the reasons expressed by other testifiers, it is important to recognize that Federal AGI thresholds do not take into consideration excessive health expenditures faced by many senior citizens and disabled persons. These excessive health expenditures are subtracted as itemized deductions after Federal AGI is determined. To solve these problems, it is clearly much better to use a pension income exclusion such as the alternative proposal to H.B. No. 1092, HD 1 considered at one point by the House Committee on Finance. However, I believe that higher pension income exclusions should be used such as the amounts in the present H.B. No. 1092, HD 1 or the amounts I have suggested above.

I am also opposed to the limitations on the deductibility of State of Hawaii income taxes or excise taxes. These limitations will have detrimental impacts on all taxpayers, particularly senior citizens and disabled persons. In his testimony before the House Committee on Finance, the Director of Taxation stated that
"It is a fundamental tax policy to eliminate an absurd deduction allowed by the same source that is taxing the income. The current deduction is irrational and poor tax policy." Obviously, it is inappropriate for a State to impose an income tax on its own State income and sales taxes. The Director of Taxation acknowledged that a number of States allow income tax deductions for State income or sales taxes. However, it should also be mentioned that many other States take the better approach of allowing deduction of Federal

income taxes, including Alabama, Iowa, Louisiana, Missouri (up to $5,000 or $10,000), Oklahoma (with limits), Oregon (up to $5,000) and Utah (50%). Replacement of the current State of Hawaii income/sales tax deduction with a Federal income tax deduction for State of Hawaii income tax purposes would certainly eliminate the absurdity and irrationally that concerns the Director of Taxation. However, it would probably result in a greater loss of revenue for the State.

I would also like to note that I am sympathetic to those who have lost their spouses. However, there does not appear to be any justification for doubling the Federal AGI thresholds for pension tax purposes or income/sales deductibility purposes for surviving spouses who are in an identical financial situation to single taxpayers who are not surviving spouses. Other States do not recognize a distinction. The same is true for heads of households. In most of the other States, there are only two or three classifications, i.e. single fillers or joint filers or married filing separately, single, and married filing jointly. Moreover, the pension tax exclusions for married persons is not double that of single filers. Generally, the pension income of all taxpayers is considered individually for exclusion or credit purposes. As others have testified, a married couple does not require twice the amount of money to live as a single person.

Finally, I believe the retroactive application of this legislation, taxing pension income and limiting the deductibility of State of Hawaii income taxes or excise taxes beginning January 1, 2011 is inappropriate. This retroactive application gives us seniors and disabled persons no opportunity to plan for our futures. Obviously, many of us seniors and disabled persons may have chosen to make the difficulty decision of moving to another more retirement-friendly jurisdiction rather than allowing the State to eat away at the little money we have saved for our retirement. We seniors and disabled persons should at least be given the time and opportunity to make

this critical decision about our futures before we are impacted by this and other tax increases.

The Governor in his testimony before the House Finance Committee said that "[w]e neither need nor want what is taking place on the mainland regarding public workers . . . ". I fully agree, but the fact is that, on the Mainland, other States are adjusting the salaries and benefits of current public employees still in the workforce. Many of these current public employees have years remaining to address their retirements through alternative savings mechanisms or employment opportunities. Currently retired persons do not. Other States are not expecting current retirees to finance the salaries and benefits of active employees.

Please do not target us currently retired seniors and disabled persons. We fully contributed to the care, health, education and financial well-being of younger generations throughout our working lives as well as to the care, health, and financial well-being of older generations. Now, we need the same consideration and help.

Thank you for your attention and cooperation.

Sincerely,

Gregory J. Swartz

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 3:20 PM
To: JDLTestimony
Cc: websmithy@comcast.net
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Craig A. Smith
Organization: Individual
Address:
Phone:
E-mail: websmithy@comcast.net
Submitted on: 3/19/2011

Comments:
I feel strongly that it would be counter productive to tax pensions in Hawaii. Many of my friends and relatives currently are retired in Hawaii or plan to retire there.

Taxing a person with a limited pension would discourage people from moving to Hawaii and adding their income to your State's gross per capita income. You currently have a high sales tax and other taxes as a source of income. Tourists and visitors to the islands can be taxed for revenue. You should not place additional burden on your island residents.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 3:43 PM
To: JDLTestimony
Cc: garrypsmith@juno.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Garry P. Smith
Organization: Individual
Address:
Phone:
E-mail: garrypsmith@juno.com
Submitted on: 3/19/2011

Comments:
While it is true that there are 40 states who do tax pensions, what is also true is that many of them are reviewing their tax policy to provide tax breaks for pensioners in order to attract them to their state. Hawaii is the only state of the 50 that is considering taxing pensioners for the first time.

Why do the 10 states not tax pensions as a matter of good policty:

Gray Goldmines. Pensioners tend to be healthier (due to their health care coverage) better off financially than non pensioners and contribute to the state and community more than they cost. Pensioners are a net gain financially to the state.

Pensioners are more likely to move to the states that do not tax their pension and take their money with them so the state doesn't get taxes from that pensioner.

Many states use "retirement migration" as an economic strategy to attract pensioners due to their income and benefits. Hawaii would discourage pensioners from migrating to Hawaii and lose their economic benefits.

Hawaii needs to keep pensioners from leaving to non-tax states like Nevada and Washington state because they will take with them their financial, philantropic, and civic contributions with them.

The short term benefit for the state by taxing pensioners will be more tax revenue but the long term consequences will be a reduction in retired military, state pensioners and federal pensioners who will take the tax into consideration along with the other high cost of living in Hawaii and decide to retire else where. Short term gain for longer term harm.

Don't start a tax on pensioners.

From: Joel Fischer [jfischer@hawaii.edu]
Sent: Saturday, March 19, 2011 3:51 PM
To: JDLTestimony
Subject: HB1092; JDL; 3/21/11; 8:30AM. Rm 016

Importance: High

HB1092, HD 1; Relating to Hawai`i Employer-Union Health
JDL; Chair, Sen Hee

PLEASE KILL THIS BILL, MAKE-DIE-DEAD!!

I have never seen any set of bills -including HB1041 and HB1092- that are more anti-worker and anti-elderly. How can a democratic Governor and Democrat-controlled legislature countenance this attack on your most important constituencies? Even Republican administrations would never submit these attacks on workers and the elderly. **HEWA!**

The high income requirements are shibai! It is a slippery slope to using much lower income requirements, a certainty if this bill is passed.

The budget problems in Hawai`i nei are not the fault of workers and retirees. But there is a clear line of blame for these problems: first, the hundreds of millions of dollars wasted on tax credits that do virtually nothing to create jobs, and, second, the tax changes introduced in faux-liberal Ben Cayetano's regime that absolutely robbed the state of hundreds of millions of tax dollars from the rich under the absolutely false assumptions of the trickle-down theory.

Until the Governor and Legislature really attack these inequities, I am unalterably opposed to the bills on today's agenda.

"Everybody" sharing the burden does NOT mean only the poor, elderly and state workers!!

Aloha, joel

Dr. Joel Fischer, ACSW
Professor (Ret.)
University of Hawai'i, School of Social Work
Henke Hall
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill

It is better to be "over the hill" than under it.
Anonymous

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 7:51 PM
To: JDLTestimony
Cc: brownm009@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Colonel Mark L. Brown, U.S. Army (Retired)
Organization: Individual
Address:
Phone:
E-mail: brownm009@hawaii.rr.com
Submitted on: 3/19/2011

Comments:
I am a Kaneohe resident represented by Senator Jill N. Tokuda.

Hawaii is one of only ten states that do not tax pension and social security income. Like for other resort States such as Florida, this tax advantage encourages tens of thousands of retirees to settle here in their golden years. Retirees are very beneficial economically because they bring their assets and pension income to their new home and usually do not complete for employment. In effect, they are long-term tourists who boost job opportunities and business income substantially across-the-board. Taxing pensions would discourage future retirees from settling in Hawaii and cause some current retired residents to leave for lower cost-of-living alternatives on the Mainland.

Although the higher pension tax boundaries provided by HB 1092 HD1 (of $200k for a joint tax return) is a considerable improvement over the low $75k threshold proposed by Gov. Abercrombie, clearly any pension tax would be harmful to the State economy.

I therefore recommend the State legislature discard the pension tax alternative and reconsider other options, such as a modest increase in the GET, that would meet budgetary requirements and not harm the State economy to a disproportional extent.

Thank you for your thoughtful consideration.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 20, 2011 9:47 AM
To: JDLTestimony
Cc: brownm009@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Colonel & Mrs. Mark L. Brown, U.S. Army (Retired)
Organization: Individual
Address:
Phone:
E-mail: brownm009@hawaii.rr.com
Submitted on: 3/20/2011

Comments:

I am a Kaneohe resident represented by Senator Jill N. Tokuda.

Hawaii is one of only ten states that do not tax pension and social security income. Like for other resort States such as Florida, this tax advantage encourages tens of thousands of retirees to settle here in their golden years. Retirees are very beneficial economically because they bring their assets and pension income to their new home and usually do not compete for employment. In effect, they are long-term tourists who boost job opportunities and business income substantially across-the-board. Taxing pensions would discourage future retirees from settling in Hawaii and cause some current retired residents to leave for lower cost-of-living alternatives on the Mainland.

Although the higher Adjusted Gross Income (AGI) pension tax boundaries provided by HB 1092 HD1 (of $200k for a joint tax return) is a considerable improvement over the low $75k joint return AGI threshold proposed by Gov. Abercrombie, clearly any pension tax would be harmful to the State economy.

I therefore recommend the State legislature discard the pension tax alternative and reconsider other options, such as a modest increase in the General Excise Tax (GET), that would meet budgetary requirements and not harm the State economy to a disproportional extent.

Thank you for your thoughtful consideration.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 20, 2011 10:14 AM
To: JDLTestimony
Cc: desforgej001@hawaii.rr.com
Subject: Testimony for HB1092 on 3/21/2011 8:30:00 AM

Testimony for JDL 3/21/2011 8:30:00 AM HB1092

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: james des forge
Organization: Individual
Address:
Phone:
E-mail: desforgej001@hawaii.rr.com
Submitted on: 3/20/2011

Comments:
I am opposed to taxing military retirement pay. After 22 years of loyal service, and now living a lifestyle based on a limited fixed military retirment income.

First consider Reducing social service benifits to people who mostly have never worked at all. As an example, I now have medical benifits for me and my dependents. these benifits are not free, I PAY!!!. We do not get dental, eye or hearing benifits.

People receiving social services receave all these benifits and much more. When all their benifits are concidered their lifestyle is much higher then mine. They pay no taxes on these benifits, but yet receive tax returns.

In order to Increase State income drasticly reducing their sevices, and not tax military retirment. Reduce their way of life which is already very high. not mine, which is already based on a very limited fixed income.

To: Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair

Date: March 21, 2011, Conference Room 016, 8:30 a.m.

Re: **HB 1092, HD1 – RELATING TO TAXATION**

Chairman Hee and Committee Members:

My name is Barbara Kim Stanton, State Director of AARP Hawaii. AARP is a membership organization of people 50 and older with nearly 150,000 members in Hawaii. We are committed to championing access to affordable, quality health care for all generations, providing the tools needed to save for retirement, and serving as a reliable information source on issues critical to Americans age 50+.

AARP offers the following comments on HB 1092 HD1, which amends Hawaii tax law by providing for the taxation of pension income based on Federal Adjusted Gross Income (FAGI) thresholds, and eliminates the deduction for state taxes paid for certain taxpayers. AARP notes that under this proposal some seniors would get two tax increases because of the elimination of the deduction for state income taxes and the tax on pensions. However, AARP's comments pertain to the portion of the bill relating to the taxation of pension income.

Like most Hawaii residents, AARP members believe that they must work to effectively address the state's approximate $500 million budget deficit in each of the next two fiscal years. The staggering size of this deficit will affect all of us. Due to this broad impact, AARP members fundamentally believe that, in order to be effective, the solutions to this problem must also be broad-based. AARP members are willing to do their fair share to help solve this problem, but believe this sacrifice must be shared as equitably as possible. Viewed through these objectives, AARP therefore has serious concerns regarding HB 1092 HD 1, both in terms of its fairness and effectiveness.

AARP is concerned that this proposal is the "foot in the door" that will lead to taxing pensions of seniors at moderate and lower income levels, sooner rather than later. This bill will only raise an estimated $17.1 million, according to the Department of Taxation in their February 25, 2011 testimony. This amount will fall far short of the approximate $112 million in revenues projected in the Governor's proposal. Furthermore, Japan's recent natural disasters will have a negative effect on Hawaii's economy and further increase the State's budget deficit.

Many retirees realize that their pensions may not be taxed under this bill, however, it can become easily taxed, by simply lowering income thresholds. The taxing of pensions can become a convenient means to help close the growing deficit. Thus the burden of fixing the state's budget problems will be unfairly placed on the shoulders of vulnerable retirees on fixed incomes, with limited options to increase income to offset increased taxes.

Many retirees also feel that the enactment of this pension tax is unfair, as it would change the "rules" after the fact. Retirees and near retirees worked their entire careers and planned on their full pension incomes in retirement. A tax on pensions would cause an unplanned and unexpected reduction to retirees' incomes, and retirees would face the daunting challenge of surviving with less income. It is clearly unfair for retirees who have dutifully paid their share of taxes for their 30-40 year working career, to now be expected to pay even more taxes.

AARP members are very concerned that the proposed pension tax will further erode seniors' retirement security. This erosion has been especially noteworthy over the past two decades, as consumer costs, as reflected by the CPI, have increased by 67 percent nationally, and 70 percent in Honolulu.

In particular, health care costs are especially burdensome as more than 200,000 Medicare beneficiaries in Hawaii already spend about 30 percent of their income on health care in the form of out-of-pocket premiums, co-pays and deductibles.

Brand-name and specialty drugs costs have also skyrocketed. In the 12 months ending March 2010, prices for widely used brand name and specialty drugs rose by more than nine percent, on average. There is also the looming challenge of long-term care. In Hawaii, the median price of a private room in a nursing home is $115,000 per year, according to the latest Genworth study.

The proposed legislation also has "technical" flaws that cause unfairness and inequities.

- An individual's entire pension income would be unfairly taxed, if it was only $1 over the FAGI threshold, while it would not be taxable if under the FAGI threshold.
- Social Security benefits are also used to qualify pensions for taxation by its inclusion in the FAGI threshold, which results in an indirect taxation of Social Security benefits.
- This bill is retroactive to January 1, 2011, and would create an unfair financial hardship for many individuals upon discovering an additional tax liability when they file their 2011 tax return.

The effectiveness of this bill is also of concern. Because of current laws at the federal and state levels, certain groups of individuals would be exempt from this proposed bill. For instance, despite the Governor's stated intent to target wealthy nonresident retirees who pay no taxes on the pension part of their income, these individuals would be exempt from this legislation. The reason they will remain exempt is that current federal law (Public Law No. 104-95) prohibits states from taxing distributions from nonresident pension and other retirement income plans. As a result, many wealthy retirees may legally avoid tax.

We also note that Article XVI, Section 2 of the Hawaii Constitution states that the accrued benefits of retirees in the State retirement system shall not be "diminished or impaired." As such, this pension tax proposal may have legal repercussions if applied retrospectively, particularly to current retirees.

Given the financial magnitude of this tax proposal and the lack of information on those affected, we strongly recommend that the State continue to conduct community dialogues to both inform and receive feedback from retirees and prospective retirees, before enacting a tax on pensions.

We respectfully request that this bill be deferred for the reasons herein.

Thank you for the opportunity to present our views to help ensure the retirement security of Hawaii retirees.

Hawai'i Alliance for Retired Americans

An affiliate of the Alliance for Retired Americans
c/o AFSCME · 888 Mililani Street, Suite 101 · Honolulu, Hawaii 96813

AFT Hawaii Retirees
HGEA Retirees
HSTA – Retired
ILWU Retirees
Kokua Council
Machinists Union Retirees
UPW Retirees
ADA/Hawaii
Hawaii Family Caregivers Coalition
Kupuna Education Center

(Submitted by email to: JDLTtestimony@Capitol.hawaii.gov March 19, 2011)

Statement of Al Hamai, President, on HB1092, HD1, Relating to Taxation of Pensions

Hearing Of Senate Judiciary and Labor Committee

March 21, 2011, 8:30 a.m. Conference Room 016

Chair Clayton Hee, Vice Chair Maile S.L. Shimabukuro and members of the Committee,

HD1095, HD1 proposes to tax pension income of taxpayers with a certain federal adjusted gross income and filing status.

The Hawaii Alliance for Retired Americans (HARA) is mindful of the dire fiscal situation that the State currently faces.

In spite of the huge projected budget deficit, we need to expand our safety net services and address the needs of the poor and disadvantaged, along with the many other essential public services required by our citizens. We recognize that shared sacrifice will be required and agree that seniors and retirees must also contribute to help keep our State solvent. After deliberations, HARA has taken the following positions:

1. Support a tax on pension income that exceeds a specified threshold. For most retirees, especially those with low and middle incomes, their pension income should not be taxed. We strongly oppose taxing their pensions. Taxing them would place an extraordinarily huge burden on these pensioners, many who are barely making it and who during their working years helped to build our state into what it is today. However, we are willing to support a tax on pension

income, especially for those with the highest pension income that exceeds a specified threshold. We believe that taxing pensions above a specified threshold, which should be set at a high level, may not generate a huge amount of revenue. But it will obtain revenue from those, who are more able and willing to bear this tax for the good of our state.

2. Support a temporary increase in the general excise tax (GET). We recognize that the GET is regressive and will impact the poor and senior citizens living on fixed incomes disproportionately more than it would others. However, if the increase is temporary, the State should be able to generate sufficient income to see us through this fiscal crisis, with even our tourists contributing.

In looking at other sources of revenues, the proposal by the House in its budget to suspend the exemption of the GET for certain entities and require these entities to pay the GET should be seriously considered. This proposal could generate much needed revenues. Also, other proposals to increase revenues should be similarly considered to deal with our huge deficit.

Helping to resolve the state deficit, while taking care of the important programs and activities of all citizens—children, working people, retirees and seniors, et al—is everybody's business, including seniors and retirees. By taking the positions of supporting a temporary increase in the GET and of supporting a tax on pension income that exceeds a specified high threshold, HARA demonstrates its desire to be a part of this important public decision making process.

Mahalo and Aloha.

HARA is a strong voice for Hawaii's retirees and seniors; a diverse community-based organization with national roots; a grassroots organizer, educator, and communicator; and a trusted source of information for decision-makers.