

March 19, 2012



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The Honorable Karl Rhoads
Chair
Labor and Public Employment Committee
Hawaii State Capitol, Room 326
415 South Beretania Street
Honolulu, HI 96813

Re: **SB2750 SD1**

Dear Chair Rhoads:

I write to you on behalf of the State of Hawaii Organization of Police Officers ("SHOPO") in **strong** opposition to SB2750 SD1.

As you know, SB 2750 is the bill relating to what the legislature has referred to as "spiking." The term "spiking" references the intentional manipulation and abuse of overtime earnings by an individual employee. The Senate's Ways and Means Committee explained that "spiking" was the practice of "abnormally inflating" an employee's pension benefits through late career overtime compensation.

We have been told by the ERS that the purported objective of this bill is to put an end to "spiking." The problem is that the statistical information provided by the ERS to SHOPO and the Honolulu Police Department ("HPD") is factually incomplete and inconclusive. We have reviewed the data provided by the ERS, but cannot determine from the information provided how many individuals, if any, among the police/fire group have engaged in intentional "spiking" practices. We are also unable to discern from the data provided whether any other category of employees have engaged in intentional "spiking." We have asked the ERS for additional information on this issue, but nothing further has been provided to date. If the information was available, we would have expected the ERS to have provided the same to us.

If we do not know to what extent intentional "spiking" exists or how it was allowed to happen, then we really do not know what the extent or cause of the problem is. If we do not know what the cause of the "spiking" problem is, then we cannot in good conscience say this bill is the solution and passing this bill would be irresponsible on everyone's part. We cannot make decisions off a single EMS news story and react in a knee jerk fashion. That is not responsible law making. At this point, we are all simply shooting in the dark with this bill. It is my understanding that this was the very reason why Senator

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The Honorable Karl Rhoads
Chair, Labor & Public Employment Committee
Re: SB2750 SD1, Spiking
March 19, 2012
Testimony of Tenari Maafala, SHOPO President

Clayton Hee's Committee on Judiciary and Labor set the effective date of the bill for the year 2050. His committee received testimony from several public unions in opposition to the bill, indicating "a lack of understanding of how the calculations in this measure were derived, concerns on how this measure will impact their union members' future benefits; and a desire for all stakeholders to discuss this measure and work out an equitable solution." Senator Hee's committee further acknowledged that "additional time is needed to research the impact this measure may have on existing pension and retirement laws, especially on the laws relating to the determination of employer normal cost and accrued liability contributions, and the amount of annual contributions by the State and counties." His committee also needed "further time to consider applying similar fiduciary responsibilities under the federal Employee Retirement Income Security Act to the Board of Trustees of the Employees' Retirement System," and to perhaps "hold the Board of Trustees more accountable when making decisions that address the system's unfunded liability and future pension benefits of all public employees in the State." We agree with the committee's comments and do not believe the legislature can pass this bill without first having all of the pertinent information being made available.

HPD has also voiced its opposition to this bill because they have internal mechanisms and controls in place that precludes abusive overtime practices. If we are talking about abusive overtime practices, in our mind that is a management issue. When I read in the newspaper that the State cannot account for over \$2 million in salary overpayments to employees who did not work to earn that pay, that is a definite management problem similar to allowing an individual employee to abuse overtime. We should not be penalized for management's failures and believe the same reasons why your committee deferred the House companion bill continue to hold true for this bill.

In addition, the legislature passed major legislation last year that overhauled the retirement system, yet, the ERS comes forward asking for more. We also question how much this bill would actually affect the ERS' unfunded liability and remind your committee that it was SHOPO in 2002, not the ERS, that stepped up to the plate and filed the suit that ended the practice of "legislative skimming" of \$342,000,000.00, at that point and time. This practice had been occurring for years and contributed significantly to the ERS's current unfunded liability. We have been told that had the legislature not skimmed the funds from the ERS, the ERS would be fully funded today.


We, as police officers, have been responsible and accountable beneficiaries to the ERS system. ~~Our officers are the highest contributors to the ERS and have the most dangerous jobs in~~ the community. We believe this bill will have a disproportionate negative effect on our police officers who are forced to work overtime in the interest of protecting the community at large. In the matter of a four month span, we have lost two fine police officers who were killed in the line of duty. Due to the nature of our jobs, we are forced to work overtime which sacrifices precious time away from our families. I cannot begin to tell you the countless family activities our police

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officers miss due to the demands of our job that often requires working overtime, not because we want to, but because it is required. The APEC summit is a good example where overtime will have spiked for almost all our officers, yet that was not because of any intentional manipulation of the system.

In summary, the men and women of SHOPO strongly oppose SB 2750 and ask that it be deferred. We do not have sufficient information to say it is a good bill or that it will be an effective bill. Our salaries do not come anywhere close to compensating our officers for their sacrifices and willingness to give their lives to protect our community. Our retirement pension is simply something that makes it a little easier on our officers when they finally hang up their gun and retire. We do not feel we are a burden on the retirement system or that we are guilty of "spiking" practices. At the very least, our officers should be excluded from this bill due to the unique demands of our jobs.

Sincerely,


TENARI MA'AFALA
SHOPO President