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EXECUTIVE CHAMBERS
HONOLULU

Testimony in SUPPORT of SB2750, SD1
Relating to the Employees' Retirement System

Committee on Labor & Public Employment
Representative Karl Rhoads, Chair
Representative Kyle Yamashita, Vice Chair

March 20, 2012
10:00 am Room 309

Chair Rhoads, Vice-Chair Yamashita, and members of the Labor and Public Employment Committee:

The Office of the Governor stands in SUPPORT of Senate Bill 2750, Senate Draft 1, Relating to the Employees' Retirement System. This bill will help curtail unexpected increases in pension benefits and the unfunded actuarial accrued liability in the Employees' Retirement System (ERS) by limiting the amount of compensation included in the calculation of "average final compensation", and will also require the employer to pay any additional costs resulting from an increase in the average final compensation.

As of June 30, 2011, the unfunded actuarial accrued liability in the ERS stands at a little over \$8 billion. While overtime "spiking" is not the sole reason for this large unfunded liability, it is a contributing factor nonetheless. This bill addresses the "spiking" issue from two sides: by limiting the increase of average final compensation of the retiree and forcing the employer to cover the additional cost resulting from that increase.

We would also like to take this opportunity to note the introduction by Chair Rhoads of HCR152, Requesting the Department of Human Resources Development to Convene a Task Force to Examine Management Policies Regarding the Use of Overtime by State and County Employees. We are supportive of this resolution, as we feel that management is a critical factor in the use of overtime.

It may also be useful to note that in this bill, "anti-spiking" provisions for current employees apply for those that retire after July 1, 2015.

Thank you for the opportunity to testify.



HAWAII FIRE FIGHTERS ASSOCIATION

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House of Representatives
The Twenty-Sixth Legislature
Regular Session of 2012
Committee on Labor and Public Employment
March 20, 2012

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Testimony by
Hawaii Fire Fighters Association

S.B. No. 2750, S.D. 1 RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

My name is Robert H. Lee and I am the President of the Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO. HFFA represents the 2,800 active and retired professional fire fighters throughout the State. HFFA opposes S.B. No. 2750, S.D. 1.

Employee contributions to the ERS and pension calculations are based on work performed inclusive of hours worked in addition to their normal scheduled work shifts as directed by management to meet appropriate staffing levels for the safety of the community and our members. This bill penalizes employees who fulfill work schedules assigned and unfairly impacts all public employees.

HFFA appreciates the efforts to ensure the fiscal stability of the Employees' Retirement System for all current and prospective members and strongly believe that engaging in meaningful discussions among the stakeholders, public employers and exclusive representatives would best serve all beneficiaries. Thank you for the opportunity to testify.

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DEPUTY DIRECTOR

March 20, 2012

The Honorable Karl Rhoads, Chair
and Members of the Committee on Labor
and Public Employment
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: Senate Bill 2750, Senate Draft 1
Relating to the Employee's Retirement System

The City and County of Honolulu supports the intent of Senate Bill 2750, Senate Draft 1 to address the effects of spiking on the unfunded liability of the Employees' Retirement System; however, we believe the proposed bill should be modified to provide for more fair and equitable treatment.

Since a similar bill last came up for hearing before this Committee, the City was able to meet with representatives of the Employees' Retirement System and the Board. A number of our questions about this measure have been answered and we have identified our areas of concern. We are working on amendments to the bill that would address our concerns and enable the City to support the bill.

We have identified the following concerns regarding the additional employer contribution:

- Employers would be required under the bill to pay more than their fair share for their employees who are deemed to have spiked their pensions. Our understanding is that past "spiking" was considered in the setting of the contribution rates—accordingly, employers are already paying for past spiking.
 - Employers would be required to pay, up front, the additional amount added to the unfunded liability for employees who fail the spiking tests
 - Employees who fail the spiking test will have their pension benefits limited
 - Employees who fail the spiking tests will receive a refund of their contributions paid, but not used due to the pension limit
 - Employers will not receive a refund or credit for the employer contributions paid, but not used, due to the pension limit
 - This additional amount is excess—over and above that which is necessary to fund any unfunded liability due to the spiking
- Employers have no guarantee end to the additional payment
 - There is no end date for the additional contributions.
 - If the tests are enforced, the additional contributions should diminish and end at some point.
 - If the tests are successfully challenged, however, the additional payments will not end until all "grandfathered" employees retire.

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- In light of our understanding that the law is likely to be challenged and our belief that employers will be forced to pay unequal amounts, there should be an end date to the payments.
- Employers have to make the payment all at once—not over a period of time
 - Employers should be provided some relief regarding the additional payments by allowing the payments to be made over a period of time
- Employers are charged for the spiking whether or not it occurred “on their watch”
 - Employers should be charged for when the spiking occurred.

The following are our proposed modifications to address the concerns:

- Include a requirement that the assessment of the additional payments will end three years after they begin.
 - This will ensure that if the law is successfully challenged, employers will not be subject to these additional assessments for an extended period of time
 - This will ensure that those employers assessed excess contribution amounts will have an end to the excess assessments
- Include a 10 year payment period for the additional assessment amount
- Replace the requirement that the last employer of the employee be charged for the spiking with a requirement that the employer who employed the employee while spiking occurred will be charged for the spiking

We have identified the following concerns regarding the tests:

- The tests do not provide for a level playing field for employees in 24/7 operations
 - The tests do not adequately consider the overtime payments to employees in 24/7 operations that have more of the characteristics of base pay rather than non-base pay
- The tests do not consider the unique situations created when employees must respond to declared states of emergency—like the recent flooding
- The tests do not consider law enforcement employees who must be assigned to different shifts, but must report to court during normal court hours.

The City remains committed to efforts to address the ERS unfunded liability in a fair and equitable manner and is open to further discussing with the Legislature and the Retirement System modification to the bill that would address our concerns,

Thank you for the opportunity to testify on Senate Bill 2750.

Yours truly,



Michael R. Hansen, Director
Department of Budget & Fiscal Services



Noel T. Ono, Director
Department of Human Resources