

STAND. COM. REP. NO.

1013

Honolulu, Hawaii

MAR 22 2013

RE: H.B. No. 805
H.D. 1
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 805, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FEDERAL TAX QUALIFICATION OF
THE EMPLOYEES' RETIREMENT SYSTEM,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the
Employees' Retirement System laws to comply with Internal Revenue
Code requirements and vesting rules in order to maintain the
system's status as a tax-qualified retirement plan.

Your Committee received testimony in support of this measure
from the Department of Budget and Finance and Board of Trustees of
the Employees' Retirement System.

Your Committee finds that the Employees' Retirement System
(ERS) is a tax-exempt, qualified retirement plan under section
401(a) of the Internal Revenue Code. If the ERS should lose its
tax-exempt status, the federal tax consequences would be extremely
harmful to its members as contributions received from employee
members would no longer have favorable pre-tax treatment and
instead would be entirely subject to federal income tax at the
time of contribution. In addition, all members would be taxed on
the value of their total accrued retirement benefits at the time
they vest rather than when they receive their retirement benefits.



In 2009, the ERS submitted a request to the Internal Revenue Service to review and determine whether the language of the plan, comprising the statutes and administrative rules governing the ERS, meets the federal tax qualification requirements applicable to governmental pension plans. On March 21, 2012, the Internal Revenue Service issued a favorable determination letter approving the language of the plan, but the letter was specifically conditioned on the State's adoption of proposed amendments that the Internal Revenue Service reviewed and approved as part of the determination letter process. This measure adopts these proposed statutory amendments to complete the determination letter process and enable the ERS to maintain its tax-exempt status.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 805, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 805, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,




CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 805 HD 1	JDL, WAM	3-19-13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)				✓
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes