

**HB275**

**HD1**

TESTIMONY BY WESLEY K. MACHIDA  
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM  
OF THE STATE OF HAWAII

TO THE SEMATE COMMITTEE ON JUDICIARY AND LABOR  
ON  
HOUSE BILL NO. 275, H.D.1

MARCH 11, 2014, 10:00 A.M.

PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE  
CONSTITUTION OF THE STATE OF HAWAII AUTHORIZING THE CHIEF  
JUSTICE OF THE STATE SUPREME COURT TO APPOINT RETIRED JUDGES TO  
SERVE AS EMERITUS JUDGES

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

H.B. 275, H.D.1, allows the chief justice to appoint judges retired from the Employees' Retirement System (ERS) upon reaching the age of 70 as temporary emeritus judges. These post retirement appointments would be for terms "not to exceed three months per appointment." As proposed, this amendment would allow retired judges to receive a salary for their temporary appointments while still receiving a pension from the ERS.

Although the ERS Board of Trustees understands the mentoring benefits of emeritus judges, the Board opposes this bill as it would create the opportunity for retired judges to "double-dip" or being employed and collecting a retirement pension at the same time. The Internal Revenue Service scrutinizes these types of appointments and as a general policy to protect the ERS' tax-qualified status the ERS Board discourages this practice.

Thank you for opportunity to testify on this important measure.

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**THE HONORABLE CLAYTON HEE, CHAIR**  
**SENATE JUDICIARY AND LABOR COMMITTEE**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2014**  
**State of Hawai`i**

**March 11, 2014**

**RE: H.B. 275, H.D. 1; RELATING TO PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE CONSTITUTION OF THE STATE OF HAWAII AUTHORIZING THE CHIEF JUSTICE OF THE STATE SUPREME COURT TO APPOINT RETIRED JUDGES TO SERVE AS EMERITUS JUDGES.**

Chair Hee, Vice Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition of H.B. 275, H.D. 1, which proposes a constitutional amendment authorizing the Chief Justice of the Supreme Court to appoint judges who have retired upon attaining the age of seventy years as emeritus judges, permitting the appointed judges to serve as temporary judges in courts no higher than the court level they reached prior to retirement and for terms not to exceed three months.

While the Department of the Prosecuting Attorney of the City and County of Honolulu supports judges and justices who are knowledgeable of the law and respectful to attorneys, staff, and witnesses pursuant to the Hawaii Revised Code of Judicial Conduct, the department notes that the mandatory retirement of judges and justices who reach the age of 70 provides opportunity for judicial nominees who have a fresh approach in analyzing the laws and a strong commitment to treating all participants in the court in a professional manner. Moreover, the mandatory retirement of age 70 for justices and judges is sometimes our only opportunity for change. By bringing back justices and judges who were forced to retire upon reaching the age of 70, we slow down this transition of leadership.

It is for these reasons that we oppose H.B. 275, H.D. 1. Thank you for this opportunity to testify on this measure.