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TESTIMONY BY THOMAS WILLIAMS
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TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL 1370, H.D. 1, S.D. 1

MARCH 28, 2016, 9:00 A.M.

RELATING TO DIVORCE

Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee:

H.B. 1370, H.D. 1, S.D. 1 proposes to require the Employees' Retirement System (ERS) to make direct payments, to a non-member former spouse, of a portion of the member's pension, annuity or retirement allowance if the ERS is ordered to do so by a final judgment, order or divorce decree.

The ERS Staff respectfully requests that the language of H.B. 1370, H.D. 1, S.D. 1 be replaced by Parts II and III of either (1) S.B. 2346, S.D. 2; or (2) S.B. 2346, S.D. 2, H.D. 1. S.B. 2346, S.D. 2, Relating to the Employees' Retirement System, has already been reviewed and approved by the Senate Committee on Judiciary and Labor on February 5, 2016, and by your Committee on Ways and Means on February 24, 2016. Parts II and III of S.B. 2346, S.D. 2, H.D. 1 are substantially similar to Parts II and III of S.B. 2346, S.D. 2,

The relevant provisions of both the Senate and current House versions of S.B. 2346 achieve the purpose of H.B. 1370, H.D.1, S.D. 1 by authorizing the ERS to make direct payment to the spouse or former spouse of an ERS member or retirant when the spouse or former spouse has been awarded all or a portion of the member's or retirant's retirement benefits as part of a property division adjudicated, ordered or decreed by a court in a domestic relations proceeding and by allowing distributions or payments authorized by the bill to be treated as payments made pursuant to a "qualified domestic relations order" for federal income tax purposes.

In addition, both the Senate and current House versions of Parts II and III of S.B. 2346 address the previous concerns raised by the ERS regarding H.B. 1370 by providing greater clarity



Employees' Retirement System
of the State of Hawaii

regarding procedural requirements and requirements for a qualifying order and by including funding appropriations, resources, and a feasible implementation date. Both the Senate and current House versions of Parts II and III of S.B. 2346 have also been vetted by the ERS actuary and outside tax council to ensure actuarial equivalence of benefits and to verify that ERS's tax-qualification will be preserved. If the provisions of Parts II and III of either the Senate version or current House version of S.B. 2346 are adopted for H.B. 1370, the ERS Board of Trustees will not oppose this legislation.

Thank you for this opportunity to provide testimony.