

TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII

TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
AND
THE HOUSE COMMITTEE ON TRANSPORTATION
ON

HOUSE BILL NO. 2445

FEBRUARY 9, 2016, 9:30 A.M.

RELATING TO PUBLIC EMPLOYEES

Chairs Nakashima and Aquino, Vice Chairs Keohokalole and LoPresti, and Members of the Committees,

H.B. 2445 provides for continued Employees' Retirement System (ERS) membership "special benefit coverage" for full-time public employees for whom employment terminates due to privatization of the employee's position upon the assumption of the operation of the government function or facility by an employer other than the State or its political subdivisions or if the facility is purchased by an employer other than the State or its political subdivisions.

As of the submittal of this testimony, the Board of Trustees of the Employees' Retirement System (ERS) has not yet reviewed H.B. 2445 and therefore has not yet taken a formal position on this proposal; however the ERS staff has the following comments and concerns regarding H.B. 2445:

1. This bill jeopardizes the ERS's status as a "governmental plan" under IRC 414(d) by allowing employees to continue to accrue benefits while employed by a private employer. Loss of "governmental plan" status would mean that the ERS would be subject to federal tax rules applicable to private employer plans and subject the ERS to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The ERS would not be compliant with the federal tax rules applicable to private employer plans. This could lead to the loss of the ERS's status as a "tax-qualified plan" which would be extremely harmful to its entire membership. Contributions received from employee members would no longer have the favorable pre-tax treatment; instead, employees' contributions to the ERS would be entirely subject to federal 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.

2. The bill presents many unanswered questions. The bill does not specify or define what the continuing coverage of the terminated employee would be. Does the employee maintain coverage only through employment with the new privatized employer? If so, for how long? The employee could continue to accrue ERS benefits indefinitely while also accruing retirement benefits under the new or even a subsequent employer's plan, based on compensation over which the State has no control and which may have no correlation to the employee's public sector compensation. Would the "special benefit coverage" involve transmittal of personnel, payroll and workers' compensation information with the privatized employer in order to maintain coverage? What about employer and employee contributions?
3. The bill presupposes that the impact of terminating coverage in the ERS will be an actuarial gain. While it is possible, and perhaps probable, that the aggregate impact will be an actuarial gain, it is not true on an individual basis. There will be a group of retirement-eligible members for whom the privatization of their position will allow them to immediately commence their benefits under the ERS while still receiving a paycheck as an employee with the privatized entity. We would expect each of these employees to immediately commence their ERS benefit which will result in an actuarial loss.
4. The bill addresses the cost of any additional liability associated with providing continuing coverage to members who would otherwise cease to be a State employee covered under ERS. However, more than 50% of the current employer contributions are used to pay for the current unfunded liability of the ERS. If there are no continuing contributions on behalf of the privatized members then the amount of contribution dollars in future years will be less than currently anticipated. This may require the employer contribution rate for the remaining employers to increase to make up for this reduction in contribution dollars.

On behalf of the Board of Trustees and staff of ERS we wish to thank you for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association

February 9, 2016

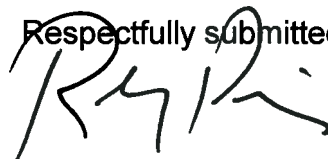
H.B. 2445 – RELATING TO PUBLIC EMPLOYEES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 2445. Under this bill, employees whose positions are privatized by an action of state or county government will continue to be eligible for state retirement pension and health benefits.

This measure is based upon legislation that was vetted and enacted by the Minnesota State Legislature. The Minnesota State Legislature clearly understood the importance and necessity of providing state retirement benefits to their employees. Without such a creative policy these employees would be ineligible to receive state retirement benefits.

Now that the Maui Region of the Hawaii Health Systems Corporation will transition to be operated by the Kaiser system on July 1, 2016, it is the responsibility of the State of Hawaii to help the employees whose positions will be privatized. Unless we take preventive steps now, employees will be confronted with permanent economic hardship through no fault of their own. We cannot allow that to occur.

Thank you for the opportunity to testify in strong support of H.B. 2445.

Respectfully submitted,


Randy Perreira
Executive Director

LABtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 08, 2016 8:54 AM
To: LABtestimony
Cc: ddochin@hhsc.org
Subject: *Submitted testimony for HB2445 on Feb 9, 2016 09:30AM*

HB2445

Submitted on: 2/8/2016

Testimony for LAB on Feb 9, 2016 09:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Desiree K Dochin	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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RODERICK K. BECKER
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 2445

February 9, 2016
9:30 a.m.

LATE

RELATING TO PUBLIC EMPLOYEES

House Bill No. 2445 adds a new chapter to the Hawaii Revised Statutes (HRS), to ensure future Employees' Retirement System (ERS) benefits for public employees who are terminated from public employment due to the privatization of their positions.

The Department of Budget and Finance opposes this measure which provides for the continuation of accruing benefits for persons who are no longer employed by the State due to privatization of their positions.

As detailed in the testimony of the ERS, this measure may have dire consequences for the ERS by jeopardizing its status as a governmental plan which would subject the ERS to federal tax rules applicable to private employer plans, for which the ERS is not compliant. In addition, employee members will be negatively impacted as their contributions would now be subject to federal tax instead of receiving favorable pre-tax treatment.

Furthermore, it is unclear who will make contributions for the employer, including the costs to pay for the current unfunded actuarial accrued liability.

Finally, this measure could be considered a benefit enhancement, which is contrary to Section 88-99, HRS.

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February 8, 2016

RE: HB 2446, SB 2077 – in favor
HB 2445, SB 2039 – in favor
HB 2606, SB 3000 – in favor

I have dedicated my career as a nurse to MMMC, for the last 25 years, along with many other State of Hawaii employees with HHSC. Our pay salary has always been significantly less than the private sector primarily due to our retirement package, that we were lead to believe would never go away. Our retirement was a significant factor in our choice to remain dedicated caregivers to our community hospitals. Now the day is coming that none of us thought we would ever see, when our jobs are being abolished through privatization. This has a huge impact, as many of us are just short of age or years of service to qualify for full retirement.

Throughout the years we have struggled with the difficulty to recruit & retain experienced/qualified staff due to our state contracts that deferred the bulk of our benefits till retirement. This privatization will cause our hospital to lose a higher amount of nurses to early retirement or to other hospitals within HHSC to get their retirement. Maui has already had an increase number of nurses retire before they intended. These are highly skilled nurses that need to be replaced, subjecting Maui region to increasing staff shortages. University of Hawaii, Maui Campus produces new excellent nurses, but they need to gain experience by being mentored by the senior nurses. This subjects Maui community to a difficult transition due to this forced attrition.

It is very frustrating since several of us are so close to a step movement in vesting or the ability to retire. There are minimal opportunities to fulfill our retirement goals that we were promised. Leaving the Maui region is not an option for most people whose families & homes are established here. Changing professions to an unskilled job to continue to retain state or county employment isn't fair to the employees or prospective employers. Providing separation benefits & allowing for early retirement without penalties is the politically correct way to ease this transition for our hard working employees who jobs are directly impacted by the abolishment of Maui Region HHSC through privatization.

These bills would allow employees facing a RIF, privatization, etc. to receive an early retirement incentive, voluntary separation benefit, and ensures future ERS benefits. Thank you for your consideration & allowing my testimony. Feel free to contact me if you have any questions.

Mahalo,

Rose Kroner

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February 8, 2016

RE: HB 2446, SB 2077 – Support
HB 2606, SB 3000 – Support
HB 2445, SB 2039 – Support

I have been permanently employed by MMMC for 19 years. My seniority would have been higher, but due to the politics of the State System I was unable to receive credit for all my time worked. Even though there were positions available, I had to work as “E-hire” for a year first, which now disqualifies me from early retirement as the Maui Region is privatized this year. Even though I was a longtime resident of Maui & honor graduate of Maui Community College in nursing, I was left with no other option, short of leaving the island, to get my foot in the door. Even that sacrifice wasn’t enough, as I could not be considered for a job as the RN I trained to be, unless I first accepted a job below my level of education, training & pay class!

It makes me lose faith in our political system that I am now again at the mercy of the State to receive what I have worked long & hard to achieve. It seems there has been a bullseye on my employment from day 1, preventing me from reaching my goals. I love taking care of our patients at the hospital, both visitors and community members. I give them quality care with aloha that I hope I will receive in turn when I am in need. Even though I receive letters of appreciation frequently from my patients, I often feel like I am not appreciated by MMMC, HHSC, or the State of Hawaii. All of us employees are victims of this bureaucracy. It is a huge injustice if we cannot even count on the government process to protect our rights & benefits.

I am willing to work in any job with the state or county of Maui to retain my tenure in the retirement system that I sacrificed all these years to achieve. Since there are not any nursing jobs that I can transfer to, I applied in November 2015 for several positions advertising active recruitment to maintain my employment on Maui. So far I have been disqualified to work as a painter, park superintendent or with waste water management. I finally received a letter stating I am qualified for unskilled labor jobs as a janitor, groundskeeper, grass cutting, & golf course maintenance. The letter states I am on the list, but no job offers have been presented. I would rather fill one of these significantly lower paying jobs on Maui, rather than RIF to an outer island & bump another dedicated nurse from achieving his/her work goals.

I know of several people that literally had their golden egg turn into humpty dumpty, by dying before they could afford to retire. All the sacrifices that they made to dedicate themselves to work at the hospital were all in vain, as their hard earned pension was forfeited to the state by their death. Their families missed out on their life with their commitment to the hospital & their death destroyed the employee’s plans to provide financial security for their children & mates. I am convinced that the stress of being understaffed, underpaid & underappreciated was a factor in their premature deaths.

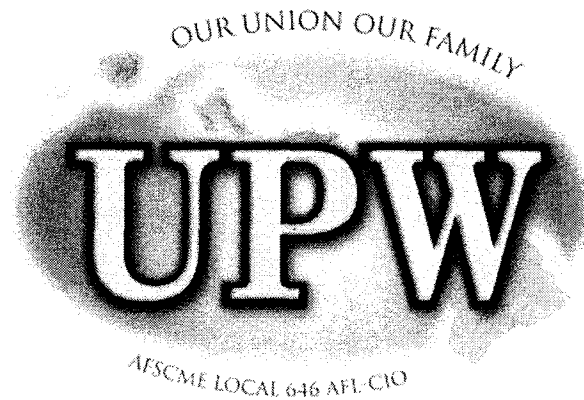
I implore you to give these bills your blessing, and pass them as an act of appreciation for the dedication & hard work that I & my fellow coworkers have provided. These bills would allow employees facing a RIF, privatization, etc. to receive an early retirement incentive, voluntary separation benefit, and ensures future ERS benefits.

Thank you for taking my testimony into consideration as you make your decision on these bills. If you have any questions please feel free to contact me. I would have preferred to appear in person to testify, but was not granted the time off to attend the hearing.

Mahalo,

Charles R. Kroner, Jr

LATE TESTIMONY



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Eighth Legislature
Regular Session of 2016

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT (LAB)/
COMMITTEE ON TRANSPORTATION (TRN)

The Honorable Mark M. Nakashima, Chair (LAB)
The Honorable Henry Aquino, Chair (TRN)
The Honorable Jarrett K. Keohokalole, Vice Chair (LAB)
The Honorable Matthew LoPresti, Vice Chair (TRN)

DATE OF HEARING: Tuesday, February 9, 2016
TIME OF HEARING: 9:30 a.m.
PLACE OF HEARING: State Capitol
415 South Beretania Street
Conference Room 309

TESTIMONY ON HOUSE BILL 2445 RELATING TO PUBLIC EMPLOYMENT

By DAYTON M. NAKANELUA,
State Director of the United Public Workers (UPW),
AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, and AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB2445 Relating to Public Employment ensures future ERS benefits for public employees who are terminated from public employment due to the privatization of their positions.

The UPW supports the intent of this measure. Thank you for the opportunity to submit this testimony.