



The Judiciary, State of Hawai'i

Testimony to the Twenty-Ninth State Legislature, 2017 Session

Senate Committee on Ways and Means
Senator Jill Tokuda, Chair
Senator Donovan Dela Cruz, Vice Chair

Wednesday, March 1, 2017, 9:45 a.m.
State Capitol, Conference Room 211

by
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 249, SD 1, Relating to Retirement.

Purpose: Senate Bill No. 249, SD 1, proposes to amend the provisions of chapter 88, Hawai'i Revised Statutes, to reduce the service retirement allowance for credited service as a judge for new judicial appointments after June 30, 2017.

Judiciary's Position:

The Judiciary respectfully opposes Senate Bill No. 249, SD 1, as it creates an additional tier of pension benefits for judges by further reducing the retirement allowance for the second time in five years (the retirement allowance was reduced from 3.5% to 3.0% under Act 163, Sessions Laws of Hawaii 2011, for judges appointed after June 30, 2012; this bill proposes another reduction from 3.0% to 2.0% for new judicial appointments after June 30, 2017).

We appreciate the Senate Judiciary and Labor Committee's amendment to Senate Bill No. 249 whereby the more stringent years of service, i.e., increasing eligibility years of service, was deleted. However, we would like to comment on the proposal to reduce the retirement allowance from 3.0% to 2.0%.

Unlike Act 163, which created a new benefit structure and impacted all new members with ERS membership status after June 30, 2012, Senate Bill No. 249, SD 1, impacts only judges.



Senate Bill No. 249, SD 1, Relating to Retirement

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If contributory plan members with ERS membership status before July 1, 2012, choose not to become judges after June 30, 2017, i.e., stay in the contributory plan as a general employee, they would already earn the same 2.0% retirement allowance but with less stringent vesting requirements of age 55 with 5 years of service. The proposed 2.0% retirement allowance for judges appointed after June 30, 2017, along with the more stringent vesting requirements of age 60 with 10 years of service comparatively diminishes the attractiveness of a judgeship. Although the proposed amendment affects only one small category of public employees, the impact is significant to existing ERS members who may consider seeking a judgeship, such as prosecutors, public defenders, deputy attorney generals, and elected officials.

Senate Bill No. 249, SD 1, also impacts new ERS members upon appointment as judges after June 30, 2017. New ERS members who are appointed judges after June 30, 2017 will be subject to the retirement allowance of 2.0%, rather than the current 3.0%.

The Judiciary notes that previous Commissions on Salaries, established under the Hawai'i Constitution, considered judicial retirement benefits and the mandatory retirement age of 70 in its determination of judicial salaries. The next Commission on Salaries will convene in 2018 and we anticipate the Commission on Salaries will again review and take into consideration retirement benefits of judges.

To attract the most qualified attorneys to commit to the bench, a highly attractive compensation package, including retirement and health benefits, must be offered. Many experienced attorneys who leave a law practice for public service on the bench generally do not plan to return to the practice of law. Moreover, judges are subject to mandatory retirement at age 70.

Maintaining an equitable retirement package for judges as compared to other contributory plan members is reasonable and necessary to attract experienced public and private sector attorneys to serve as judges.

For these reasons, the Judiciary respectfully opposes Senate Bill No. 249, SD 1.

Thank you for the opportunity to provide testimony on Senate Bill No. 249, SD 1.



**Testimony to the Senate Committee on Ways and Means
Regarding SB249, SD1**

Senator Jill N. Tokuda, Chair

Senator Donovan M. Dela Cruz, Vice Chair

Hearing on Wednesday, March 1, 2017, 9:45 a.m.

Conference Room 211

By

**Executive Board Members on behalf of the Young Lawyers' Division of the Hawaii
State Bar Association**

Trejur Bordenave, President

Jamila Jarmon, Vice President

Summer H. Kaiawe, Secretary

Marissa Machida, Treasurer

Written Testimony Only

On behalf of the Young Lawyers' Division of the Hawaii State Bar Association ("YLD"), thank you for the opportunity to comment on SB249, SD1, which proposes to amend the provisions of HRS Ch. 88 relating to the retirement requirements for judges.

The YLD aims to provide young lawyers with professional development, and the promotion of professional opportunities.

Our membership consists of all members of the HSBA in good standing under thirty-six years of age and members who have been admitted to their first Bar less than five years regardless of age.

The YLD opposes SB249, SD1, and we join in the testimony submitted by the Judiciary, State of Hawai'i.

Thank you for considering our testimony.

** The views expressed are those of the Board of the Young Lawyers Division of the HSBA. The HSBA Board of Directors has not taken a position on this measure on behalf of the entire membership.*

Hawai‘i State Trial Judges Association

**Testimony to the Senate Committee on Ways and Means
Regarding SB249, SD1**

Senator Jill N. Tokuda, Chair

Senator Donovan M. Dela Cruz, Vice Chair

Hearing on Wednesday, March 1, 2017, 9:45 a.m.

State Capitol, Conference Room 211

By

Board Members on behalf of the Hawai‘i State Trial Judges Association

Hon. Jeannette H. Castagnetti, President

Hon. Melvin H. Fujino, Vice President

Hon. Joseph E. Cardoza, Secretary

Hon. Catherine Remigio, Treasurer

Written Testimony Only

On behalf of the Hawai‘i State Trial Judges Association (“HSTJA”), thank you for the opportunity to comment on SB249, SD1 which proposes to amend the provisions of HRS Ch. 88 relating to the retirement requirements for judges.

The HSTJA was formed in 1990 to gather, study and disseminate information with respect to the trial and the disposition of litigation, the organization of the trial courts, and to promote, encourage, and engage in activities to improve the law, the legal system, and the administration of justice.

Our membership consists of every duly appointed circuit, family and district court judge in the State of Hawai‘i as well as appellate justices and judges.

The HSTJA opposes SB249, SD1 and we join in the testimony submitted by the Judiciary, State of Hawai‘i.

Thank you for considering our testimony.

SHOPO**PRESIDENT**

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February 28, 2017

U.S. MAIL/FAX: 808-587-7220

The Honorable Jill N. Tokuda, Chair
 The Honorable Donovan M. Dela Cruz, Vice Chair
 Senate Committee on Ways and Means
 Hawaii State Capitol, Room 207
 415 South Beretania Street
 Honolulu, HI 96813

Re: SB 249, SD 1-Relating to Retirement

Dear Chair Tokuda and Vice Chair Dela Cruz:

I write to you on behalf of the State of Hawaii Organization of Police Officers ("SHOPO") in strong opposition to SB 249, SD 1 which relates to reducing a judge's service retirement allowance for credited service.

We believe that reducing the judicial retirement allowance from 3% to 2% after June, 30, 2017, which would be the second time in five (5) years, will create a significant disincentive to attracting the best and brightest legal talent to the bench in the future. Up to the present time, Hawaii has been very fortunate to have a strong and talented judiciary that is likely due in no small part to the incentive retirement benefits provide to anyone considering serving as a judge. At the end of the day, a future judicial candidate must consider his/her ability to provide for their family and ability to retire with sufficient and reasonable benefits to make the job attractive enough to leave their present positions. This bill would clearly provide a disincentive to such candidates. This bill may also have a profound effect on potential judicial candidates who are currently in public service and already in the ERS system. AG's, prosecutors, public defenders and others in public service who may be considering a future judgeship may now be unwilling to give up their present positions and more attractive retirement benefits to serve on the bench if this bill passes. As a result, we may be giving up the opportunity to have the best and most qualified candidates among the pool of judicial candidates that the Judicial Selection Commission, Governor and Chief Justice can select from and at the end that would not be in anyone's best interests.

For these reasons, we respectfully oppose SB 249, SD 1 and hope your committee will not support this bill.

Respectfully submitted,

Tenari R. Ma'afala
 TENARI MA'AFALA
 SHOPO President

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 11:37 PM
To: WAM Testimony
Cc: legallybrandon@gmail.com
Subject: *Submitted testimony for SB249 on Mar 1, 2017 09:45AM*

SB249

Submitted on: 2/27/2017

Testimony for WAM on Mar 1, 2017 09:45AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Marc Higa	Individual	Oppose	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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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2017 4:29 PM
To: WAM Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB249 on Mar 1, 2017 09:45AM*

SB249

Submitted on: 2/27/2017

Testimony for WAM on Mar 1, 2017 09:45AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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