

SB 249, SD2

RELATING TO RETIREMENT.

LAB, FIN

SB249 SD2



Submit Testimony

Measure Title: RELATING TO RETIREMENT.

Report Title: Retirement; Pension; Judges; Employees' Retirement System

Description: Reduces the percentage of average final compensation used to calculate the retirement allowance for a member who first earned credited service as a judge after June 30, 2017, to two per cent. Effective 7/1/2050. (SD2)

Companion: [HB987](#)

Package: None

Current Referral: LAB, FIN

Introducer(s): KEITH-AGARAN, INOUYE, Dela Cruz, Kim

Sort by Date		Status Text
1/20/2017	S	Introduced.
1/23/2017	S	Passed First Reading.
1/23/2017	S	Referred to JDL, WAM.
2/1/2017	S	The committee(s) on JDL has scheduled a public hearing on 02-08-17 9:00AM in conference room 016.
2/8/2017	S	The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 3 Aye(s): Senator(s) Keith-Agaran, K. Rhoads, Kim; Aye(s) with reservations: none ; 2 No(es): Senator(s) Gabbard, L. Thielen; and 0 Excused: none.
2/14/2017	S	Reported from JDL (Stand. Com. Rep. No. 185) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/14/2017	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/27/2017	S	The committee(s) on WAM will hold a public decision making on 03-01-17 9:45AM in conference room 211.

3/1/2017	S	The committee(s) on WAM deferred the measure until 03-02-17 10:05AM in conference room 211.
3/2/2017	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 8 Aye(s): Senator(s) Tokuda, Dela Cruz, English, Galuteria, Inouye, K. Kahele, Shimabukuro, Wakai; Aye(s) with reservations: none ; 3 No(es): Senator(s) Harimoto, Riviere, Taniguchi; and 0 Excused: none.
3/3/2017	S	Reported from WAM (Stand. Com. Rep. No. 872) with recommendation of passage on Third Reading, as amended (SD 2).
3/3/2017	S	48 Hrs. Notice 03-07-17.
3/7/2017	S	Report Adopted; Passed Third Reading, as amended (SD 2). Ayes, 19; Aye(s) with reservations: Senator(s) Espero, Ihara, K. Rhoads. Noes, 5 (Senator(s) Gabbard, Harimoto, Riviere, Taniguchi, L. Thielen). Excused, 1 (Senator(s) English). Transmitted to House.
3/7/2017	H	Received from Senate (Sen. Com. No. 106) in amended form (SD 2).
3/9/2017	H	Pass First Reading
3/9/2017	H	Referred to LAB, FIN, referral sheet 27
3/17/2017	H	Bill scheduled to be heard by LAB on Tuesday, 03-21-17 10:00AM in House conference room 309.

A BILL FOR AN ACT

RELATING TO RETIREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 88-74, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (c) and (d) to read:

4 "(c) If a member, who became a member prior to July 1,
5 2012, has credited service as a judge, the member's retirement
6 allowance shall be computed on the following basis:

7 (1) For a member who has credited service as a judge
8 before July 1, 1999, irrespective of age, for each
9 year of credited service as a judge, three and
10 one-half per cent of the member's average final
11 compensation in addition to an annuity that is the
12 actuarial equivalent of the member's accumulated
13 contributions allocable to the period of service;

14 (2) For a member who first earned credited service as a
15 judge after June 30, 1999, but before July 1, 2012,
16 for each year of credited service as a judge, three
17 and one-half per cent of the member's average final



1 compensation in addition to an annuity that is the
2 actuarial equivalent of the member's accumulated
3 contributions allocable to the period of service. If
4 the member has not attained age fifty-five, the
5 member's retirement allowance shall be computed as
6 though the member had attained age fifty-five, reduced
7 for age as provided in subsection (e);

8 (3) For a member who first earned credited service as a
9 judge after June 30, 2012, but before July 1, 2017,
10 for each year of credited service as a judge, three
11 per cent of the member's average final compensation in
12 addition to an annuity that is the actuarial
13 equivalent of the member's accumulated contributions
14 allocable to the period of service. If the member has
15 not attained age sixty, the member's retirement
16 allowance shall be computed as though the member had
17 attained age sixty, reduced for age as provided in
18 subsection (i);

19 (4) For a member who first earned credited service as a
20 judge after June 30, 2017, for each year of credited
21 services as a judge, two per cent of the member's



1 average final compensation in addition to an annuity
2 that is the actuarial equivalent of the member's
3 accumulated contributions allocable to the period of
4 service. If the member has not attained age sixty,
5 the member's retirement allowance shall be computed as
6 though the member had attained age sixty, reduced for
7 age as provided in subsection (i);

8 [~~(4)~~] (5) For a judge with other credited service, as
9 provided in subsection (b). If the member has not
10 attained age fifty-five, the member's retirement
11 allowance shall be computed as though the member had
12 attained age fifty-five, reduced for age as provided
13 in subsection (e); or

14 [~~(5)~~] (6) For a judge with credited service as an elective
15 officer or as a legislative officer, as provided in
16 subsection (d).

17 No allowance shall exceed seventy-five per cent of the member's
18 average final compensation. If the allowance exceeds this
19 limit, it shall be adjusted by reducing the annuity included in
20 paragraphs (1) [~~, (2), and (3)~~] to (4) and the portion of the
21 accumulated contributions specified in paragraphs (1) [~~, (2), and~~



1 ~~(3)]~~ (4) in excess of the requirements of the reduced annuity
2 shall be returned to the member upon the member's retirement or
3 paid to the member's designated beneficiary upon the member's
4 death while in service or while on authorized leave without pay.
5 The allowance for judges under this subsection, together with
6 the retirement allowance provided by the federal government for
7 similar service, shall in no case exceed seventy-five per cent
8 of the member's average final compensation.

9 (d) If a member, who became a member before July 1, 2012,
10 has credited service as an elective officer or as a legislative
11 officer, the member's retirement allowance shall be derived by
12 adding the allowances computed separately under paragraphs (1),
13 (2), (3), (4), (5), and (6) as follows:

14 (1) For a member who has credited service as an elective
15 officer before July 1, 2012, irrespective of age, for
16 each year of credited service as an elective officer,
17 three and one-half per cent of the member's average
18 final compensation as computed under section
19 88-81(e)(1), in addition to an annuity that is the
20 actuarial equivalent of the member's accumulated
21 contributions allocable to the period of service;



- 1 (2) For a member, who first earned credited service as an
2 elective officer after June 30, 2012, irrespective of
3 age, for each year of credited service as an elective
4 officer, three per cent of the member's average final
5 compensation as computed under section 88-81(e)(1), in
6 addition to an annuity that is the actuarial
7 equivalent of the member's accumulated contributions
8 allocable to the period of service;
- 9 (3) For a member who has credited service as a legislative
10 officer before July 1, 2012, irrespective of age, for
11 each year of credited service as a legislative
12 officer, three and one-half per cent of the member's
13 average final compensation as computed under section
14 88-81(e)(2), in addition to an annuity that is the
15 actuarial equivalent of the member's accumulated
16 contributions allocable to the period of service;
- 17 (4) For a member who first earned credited service as a
18 legislative officer after June 30, 2012, irrespective
19 of age, for each year of credited service as a
20 legislative officer, three per cent of the member's
21 average final compensation as computed under section



1 88-81(e)(2), in addition to an annuity that is the
2 actuarial equivalent of the member's accumulated
3 contributions allocable to the period of service;

4 (5) If the member has credited service as a judge, the
5 member's retirement allowance shall be computed on the
6 following basis:

7 (A) For a member who has credited service as a judge
8 before July 1, 1999, irrespective of age, for
9 each year of credited service as a judge, three
10 and one-half per cent of the member's average
11 final compensation as computed under section
12 88-81(e)(3), in addition to an annuity that is
13 the actuarial equivalent of the member's
14 accumulated contributions allocable to the period
15 of service;

16 (B) For a member who first earned credited service as
17 a judge after June 30, 1999, but before July 1,
18 2012, and has attained the age of fifty-five, for
19 each year of credited service as a judge, three
20 and one-half per cent of the member's average
21 final compensation as computed under section



1 88-81(e)(3), in addition to an annuity that is
2 the actuarial equivalent of the member's
3 accumulated contributions allocable to the period
4 of service. If the member has not attained age
5 fifty-five, the member's retirement allowance
6 shall be computed as though the member had
7 attained age fifty-five, reduced for age as
8 provided in subsection (e); ~~and~~

9 (C) For a member who first earned credited service as
10 a judge after June 30, 2012, but before July 1,
11 2017, and has attained the age of sixty, for each
12 year of credited service as a judge, three per
13 cent of the member's average final compensation
14 as computed under section 88-81(e)(3), in
15 addition to an annuity that is the actuarial
16 equivalent of the member's accumulated
17 contributions allocable to the period of service.
18 If the member has not attained age sixty, the
19 member's retirement allowance shall be computed
20 as though the member had attained age sixty,



1 reduced for age as provided in subsection (i);

2 and

3 (D) For a member who first earned credited service as
4 a judge after June 30, 2017, and has attained age
5 sixty, for each year of credited service as a
6 judge, two per cent of the member's average final
7 compensation, as computed under section
8 88-81(e)(3), in addition to an annuity that is
9 the actuarial equivalent of the member's
10 accumulated contributions allocable to the period
11 of service. If the member has not attained age
12 sixty, the member's retirement allowance shall be
13 computed as though the member had attained age
14 sixty, reduced for age as provided in subsection
15 (i); and

16 (6) For each year of credited service not included in
17 paragraph (1), (2), (3), (4), or (5), the average
18 final compensation as computed under section
19 88-81(e)(4) shall be multiplied by two per cent for
20 credited service earned as a class A or class H
21 member, two and one-half per cent for credited service



1 earned as a class B member, and one and one-quarter
2 per cent for credited service earned as a class C
3 member. If the member has not attained age fifty-
4 five, the member's retirement allowance shall be
5 computed as though the member had attained age fifty-
6 five, reduced for age as provided in subsection (e).
7 The total retirement allowance shall not exceed seventy-five per
8 cent of the member's highest average final compensation
9 calculated under section 88-81(e)(1), (2), (3), or (4). If the
10 allowance exceeds this limit, it shall be adjusted by reducing
11 any annuity accrued under paragraphs (1), (2), (3), (4), and (5)
12 and the portion of the accumulated contributions specified in
13 these paragraphs in excess of the requirements of the reduced
14 annuity shall be returned to the member upon the member's
15 retirement or paid to the member's designated beneficiary upon
16 the member's death while in service or while on authorized leave
17 without pay. If a member has service credit as an elective
18 officer or as a legislative officer in addition to service
19 credit as a judge, then the retirement benefit calculation
20 contained in this subsection shall supersede the formula
21 contained in subsection (c)."



1 2. By amending subsections (g) and (h) to read:

2 "(g) If a member, who becomes a member after June 30,
3 2012, has credited service as a judge~~[7]~~:

4 (1) For a member who first earned credited service as a
5 judge prior to July 1, 2017, the member's retirement
6 allowance shall be computed on the following basis:

7 ~~[(1)]~~ (A) For each year of credited service as a judge,
8 three per cent of the member's average final
9 compensation in addition to an annuity that is
10 the actuarial equivalent of the member's
11 accumulated contributions allocable to the period
12 of service. If the member has not attained age
13 sixty, the member's retirement allowance shall be
14 computed as though the member had attained age
15 sixty, reduced for age as provided in subsection
16 (i);

17 ~~[(2)]~~ (B) For a judge with other credited service, as
18 provided in subsection (f). If the member has
19 not attained age sixty, the member's retirement
20 allowance shall be computed as though the member



1 had attained age sixty, reduced for age as
2 provided in subsection (i); and
3 ~~[(3)]~~ (C) For a judge with credited service as an elective
4 officer or as a legislative officer, as provided
5 in subsection (h) ~~[-]~~; and
6 (2) For a member who first earned credited service as a
7 judge after June 30, 2017, the member's retirement
8 allowance shall be computed on the following basis:
9 For each year of credited services as a judge, two per
10 cent of the member's average final compensation in
11 addition to an annuity that is the actuarial
12 equivalent of the member's accumulated contributions
13 allocable to the period of service. If the member has
14 not attained age sixty, the member's retirement
15 allowance shall be computed as though the member had
16 attained age sixty, reduced for age as provided in
17 subsection (i).

18 No allowance shall exceed seventy-five per cent of the
19 member's average final compensation. If the allowance exceeds
20 this limit, it shall be adjusted by reducing the annuity
21 included in paragraph ~~[(1)]~~ (1) (A) and the portion of the



1 accumulated contributions specified in paragraph [~~(1)~~] (1)(A) in
2 excess of the requirements of the reduced annuity shall be
3 returned to the member upon the member's retirement or paid to
4 the member's designated beneficiary upon the member's death
5 while in service or while on authorized leave without pay. The
6 allowance for judges under this subsection, together with the
7 retirement allowance provided by the federal government for
8 similar service, shall in no case exceed seventy-five per cent
9 of the member's average final compensation.

10 (h) If a member, who becomes a member after June 30, 2012,
11 has credited service as an elective officer or as a legislative
12 officer, the member's retirement allowance shall be derived by
13 adding the allowances computed separately under paragraphs (1),
14 (2), (3), and (4) as follows:

15 (1) Irrespective of age, for each year of credited service
16 as an elective officer, three per cent of the member's
17 average final compensation as computed under section
18 88-81(f)(1), in addition to an annuity that is the
19 actuarial equivalent of the member's accumulated
20 contributions allocable to the period of service;



- 1 (2) Irrespective of age, for each year of credited service
2 as a legislative officer, three per cent of the
3 member's average final compensation as computed under
4 section 88-81(f)(2), in addition to an annuity that is
5 the actuarial equivalent of the member's accumulated
6 contributions allocable to the period of service;
- 7 (3) For each year of credited service as a judge~~[7]~~ who
8 first earned credited service as a judge prior to
9 July 1, 2017, three per cent of the member's average
10 final compensation as computed under section
11 88-81(f)(3), in addition to an annuity that is the
12 actuarial equivalent of the member's accumulated
13 contributions allocable to the period of service. For
14 each year of credited service as a judge who first
15 earned credited service as a judge after June 30,
16 2017, two per cent of the member's average final
17 compensation as computed under section 88-81(f)(3), in
18 addition to an annuity that is the actuarial
19 equivalent of the member's accumulated contributions
20 allocable to the period of service. If the member has
21 not attained age sixty, the member's retirement



1 allowance shall be computed as though the member had
2 attained age sixty, reduced for age as provided in
3 subsection (i); and

4 (4) For each year of credited service not included in
5 paragraph (1), (2), or (3), the average final
6 compensation as computed under section 88-81(f)(4)
7 shall be multiplied by one and three-fourth per cent
8 for credited service earned as a class A or class H
9 member, two and one-fourth per cent for credited
10 service earned as a class B member, and one and
11 one-fourth per cent for credited service earned as a
12 class C member. If the member has not attained age
13 sixty, the member's retirement allowance shall be
14 computed as though the member had attained age sixty,
15 reduced for age as provided in subsection (i).

16 The total retirement allowance shall not exceed seventy-five per
17 cent of the member's highest average final compensation
18 calculated under section 88-81(f)(1), (2), (3), or (4). If the
19 allowance exceeds this limit, it shall be adjusted by reducing
20 any annuity accrued under paragraphs (1), (2), and (3) and the
21 portion of the accumulated contributions specified in these



1 paragraphs in excess of the requirements of the reduced annuity
2 shall be returned to the member upon the member's retirement or
3 paid to the member's designated beneficiary upon the member's
4 death while in service or while on authorized leave without pay.
5 If a member has service credit as an elective officer or as a
6 legislative officer in addition to service credit as a judge,
7 then the retirement benefit calculation contained in this
8 subsection shall supersede the formula contained in subsection
9 (g)."

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

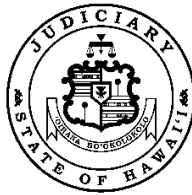
Retirement; Pension; Judges; Employees' Retirement System

Description:

Reduces the percentage of average final compensation used to calculate the retirement allowance for a member who first earned credited service as a judge after June 30, 2017, to two per cent. Effective 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





The Judiciary, State of Hawai'i

Testimony to the Twenty-Ninth State Legislature, 2017 Session

House Committee on Labor & Public Employment

Representative Aaron Ling Johanson, Chair

Representative Daniel Holt, Vice-Chair

Tuesday, March 21, 2017, 10:00 a.m.

State Capitol, Conference Room 309

by

Rodney A. Maile

Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 249, SD2, Relating to Retirement.

Purpose: Senate Bill No. 249, SD2, 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 2 because, for the second time in five years, it reduces pension benefits for judges, specifically the retirement allowance. (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.)

Unlike Act 163, which created a new benefit structure and impacted all new members with Employees Retirement System (ERS) membership status after June 30, 2012, Senate Bill No. 249, SD2, would impact only judges.

If contributory plan members with ERS membership status before July 1, 2012 choose not to become judges after June 30, 2017, i.e., they choose to stay in the contributory plan as general employees, they would already earn the same 2.0% retirement allowance and have 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. The impact is significant to existing ERS members who may consider seeking a

judgeship, such as prosecutors, public defenders, deputy attorneys general, and elected officials.

Senate Bill No. 249, SD2, 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%.

Maintaining a competitive retirement package for judges is reasonable and necessary to attract experienced public and private sector attorneys to serve as judges. Many experienced attorneys who might apply for judgeships seriously consider that as a judge they would be statutorily precluded from using their legal training to supplement their income, i.e., they must leave their prominent law practices, and that they would be subject to mandatory retirement from the bench at age 70.

Further, in testimony on the original measure before the Senate Committee on Judiciary and Labor, the Employees' Retirement System stated: "Creating this new 'tier' of benefits and requirements for a relatively small segment of the total ERS membership will require computer and administrative modifications and counseling resource costs which, from a business perspective, the ERS believes may be disproportionate to the small number of members affected by this legislation."

At the 1978 Constitutional Convention, the Judiciary Committee declared that "[t]he public should not be deprived of having the most qualified candidate for judicial appointment." The proposed diminishment of retirement benefits could lessen the likelihood that the most qualified would apply, and in turn could deprive our community of the opportunity to have the most qualified serve as judges.

Lastly, we note an apparent inadvertent error in Senate Standing Committee Report No. 872, which reads "*the two per cent of average final compensation used to calculate a retirement allowance applies to a member who first earned credited service as a judge after June 30, 2012, but before July 1, 2017.*" Indeed, the bill maintains, and does not reduce, the three per cent benefit multiplier currently applicable to members who first earned credited service as a judge after June 30, 2012, but before July 1, 2017. As the bill plainly provides, the reduced multiplier of two per cent applies only to members who first earn credited service as a judge after June 30, 2017.

For reasons stated in our testimony, the Judiciary respectfully opposes Senate Bill No. 249, SD2.

Thank you for the opportunity to provide testimony on Senate Bill No. 249, SD2.

Hawai‘i State Trial Judges Association

Testimony to the House Committee on Labor & Public Employment

Regarding SB249, SD2

Representative Aaron Ling Johanson, Chair

Representative Daniel Holt, Vice Chair

Hearing on Tuesday, March 21, 2017, 10:00 a.m.

State Capitol, Conference Room 309

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

On behalf of the Hawai‘i State Trial Judges Association (“HSTJA”), thank you for the opportunity to comment on SB249, SD2 which proposes to amend HRS Chapter 88 relating to retirement for new judges appointed after June 30, 2017.

The HSTJA **opposes** SB249, SD2 and respectfully requests that committee members vote no on this bill.

The bill singles out judges (and only judges) for a reduction in retirement benefits. No other group of employees in the Employee Retirement System (“ERS”), including members of the legislature or government executives, receive an equal or similar reduction of pension benefits under the proposed bill.

There is no stated purpose or rationale in the bill or in any committee report for the reduction of judicial retirement benefits only. As far as we know, there has been no policy report or analysis indicating that reducing the retirement allowance for new judges will amount to any real savings or benefit to the State. Notably, in testimony on the original bill before the Senate Committee on Judiciary and Labor, the ERS questioned the efficacy of such a measure from a “business perspective” given the small number of members affected (judges) versus the costs associated with computer and administrative modifications and counseling resources that would have to be undertaken by the ERS if the bill were passed.

Reducing retirement benefits for only a small group of employees (judges) in SB249, SD2 also stands in stark contrast to Act 163, passed by the legislature in 2011, which provided for changes to all categories of employees entering the ERS after June 30, 2012. While Act 163 was

grounded in policy decision making by the legislature, there is no stated policy reason for singling out a select group -- judges -- in SB249, SD2.

SB249, SD2 reduces the retirement benefits available to all new judges who earned credited service as a judge after June 30, 2017 by decreasing the retirement allowance from 3.0 to 2.0. This is a significant reduction in compensation for future judges. Retirement benefits for judges are part of the overall compensation package that attract experienced and qualified attorneys to apply for judgeships and are taken into consideration by private practitioners when deciding to give up lucrative law practices for public service on the bench.

Further, because SB249, SD2 has more stringent vesting requirements for new judges (age 60 with 10 years of service), government attorneys with ERS membership status before July 1, 2012 with less stringent vesting requirements (age 55 with 5 years of service) may be less likely to consider applying for judgeships.

Thus, the retirement allowance reduction and more stringent vesting requirements set forth in SB249, SD2 result in a diminishment of judicial positions and may likely deter experienced and highly qualified public and private sector attorneys from seeking judgeships.

The heart of our democracy in the United States and in Hawai'i is that there are three separate and co-equal branches of government. It is essential to the functioning and legitimacy of our democracy that the judicial branch be independent from the executive and legislative branches. Judicial independence is not for the benefit of judges, but instead is for the public's trust and confidence that judges will decide cases fairly and based on the law.

Alexander Hamilton recognized the problem of financial influence over judges in *The Federalist No. 79* when he wrote, "[n]ext to the permanency in office, nothing can contribute more to the independence of judges than a fixed provision for their support. . . . In the general course of human nature, a power over a man's subsistence amounts to a power over his will." With all due respect to the legislature, singling out judges for a reduction in retirement benefits erodes the public trust in government and diminishes the role of the courts in our democracy.

For all of these reasons, we strongly oppose SB249, SD2.



The House Committee on Labor & Public Employment
Tuesday, March 21, 2017
10:00 am, Room 309

RE: SB 249 SD2 Relating to Retirement

Attention: Chair Aaron Ling Johanson, Vice Chair Daniel Holt and
Members of the Committee

The University of Hawaii Professional Assembly **opposes SB 249 SD2**. As with all previous attempts to diminish retirement benefits for judges, UHPA cannot support the erosion of benefits that normally assist in attracting and retaining qualified individuals to serve as judges.

UHPA requests that the Committee **oppose SB 249 SD2**.

Respectfully submitted,

Kristeen Hanselman
Executive Director

**University of Hawaii
Professional Assembly**

Testimony re SB249, SD 1

I respectfully oppose SB 249, SD1.

A number of Bills effecting judicial selection and service have been submitted to our Legislature over the last couple of years which I have followed carefully. I believe that, collectively, these Bills are aimed at reducing benefits for our judges and justices and at increasing the challenges to judicial service and retention.

By way of brief introduction, I have been a lawyer in Hawaii since about 1971, practicing as a business and trial lawyer. I served our State for over 18 years as a Circuit Court Judge (12 years as Chief Judge) in Maui. I also served on a number of occasions as a Substitute Justice on our Hawaii Supreme Court; and I served for 7 years as a Per Diem District/Family court Judge in Maui. I was mandatorily retired at age 70. Since I retired, I have served on the Judicial Council and the Judicial Evaluation Panel that evaluates our judges. As a result, I have experience in almost all of our courts, as both a judge and as a trial lawyer.

The various Bills submitted to our Legislature over the last couple of years have been astonishing. They have ranged from Bills that seek to change our judicial selection process from merit selection to a process based upon elections; and, to a system in which all judicial terms are limited to only 6 years. Very few of these Bills have been supported with reasons or justifications to support or explain how these changes will benefit our State. I have not believed that these changes will be in the best interests of our State and I have provided testimony on each accordingly. Taken all together, the many changes to our Judiciary which these Bills have sought to promote; and, very importantly, the resulting uncertainties that these Bills have created surrounding the future and substance of judicial service in Hawaii, have in my opinion created a deterrence to our best, most qualified and experienced lawyers from seeking to serve as judges and justices.

SB 249, SD 1, is a good example of this trend. First, the language of the law concerning the computation of judicial retirement benefits have become very complicated; and the potential retirement benefits for our judges and justices have been substantially reduced. The "percentage" utilized in the formulae which has been used to determine the amount of judicial retirement benefits has, for many years, been 3 ½%. This "percentage" was recently reduced to 3%. And now SB 249, SD 1, seeks to reduce the relevant "percentage" to 2%. This is a huge decrease in potential retirement benefits in a very short period of time, with no justification. This kind of disincentive is very likely to deter highly qualified lawyers from seeking judicial service. I believe that lawyers whose skills have developed and been honed over many years in the crucible of the courtroom will make the best judges and justices.

I certainly agree that most lawyers who seek judicial office do so, first and foremost, for altruistic reasons. I am certain that all Hawaii lawyers agree that it is a great honor to be selected, and, then, confirmed by our Senate, to serve as a judge or justice in our unique and wonderful State. It is in the public interest that the best and most experienced lawyers be

encouraged to serve as our judges and justices. Encouraging lawyers of the highest experience and competence are crucial for justice.

SB 249, SD 1, gives no reasons or justifications for the drastic reduction in benefits it mandates. The trend of reductions in judicial benefits suggests that the next reduction might be to 1%, or even to something lower. Whatever the future “percentage” might be, any lawyer contemplating a change of career to judicial service surely will be alarmed that there is an effort afoot to substantially reduce benefits for judicial service. This uncertainty is not in the best interests of our citizens.

In any case, a lawyer considering judicial service must first consider the mandatory age 70 limit. Under the current state of affairs a judge cannot retire before 60 without penalty; and, he or she must retire at age 70. This is the only public office in Hawaii that provides for mandatory retirement. The age 70 limitation, in turn, places a limit upon the potential retirement benefit that the applicant and his or her family can contemplate for their future. Generally speaking, it takes about 20 years of judicial service in order to qualify for a full retirement benefit. An age 70 mandatory retirement, together with a much-reduced retirement “percentage”, as described above, means that a lawyer over 50 will be much less likely to consider judicial service. Add to this the uncertainty that the recent spate of Bills negatively effecting and/or purporting to change retirement benefits, together with other proposed selection and retention challenges, and one can appreciate that these proposed changes will reduce the pool of highly qualified candidates for judicial office.

For the reasons stated herein, I recommend against adoption of SB 249, SD1.

March 19, 2017

Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice-Chair

Testimony to the House Committee on Labor & Public Employment

Re: SB 249, S.D.2

Tuesday, March 21, 2017, 10:00 a.m.
State Capitol, Conference Room 309

Chair Johanson, Vice-Chair Holt, and Members of the Committee on Labor & Public Employment:

Thank you for the opportunity to comment on SB 249, S.D.2 which proposes to reduce the retirement benefits for judges appointed after June 30, 2017.

My name is Steven Alm, and I am a recently retired (8/31/16) First Circuit Court Judge. I am writing in strong opposition to SB 249, S.D.2.

To start with, I note that SB 249, S.D. 2, singles out judges from all other state employees, to have their retirement benefits reduced. The question is why?

I have looked at committee reports, and looked for any public comment regarding the necessity for this bill and I have not been able to find any reason given for why the legislature would single judges out for this negative treatment. Except one.

In November, 2015, First Circuit Court Judge Jeannette Castagnetti issued her opinion in the Nelson case calling on the legislature to increase its funding for the Department of Hawaiian Home Lands. This decision lead to a certain amount of reported consternation at the Hawaii Legislature.

In the 2016 legislative session to follow, there were a number of restrictive measures introduced aimed at the Judiciary including calling for judicial elections, a reduction of judicial retirement benefits, and to allow for Senate confirmation of judicial retention nominees. The Hawaii legal community was united in opposing these measures and the legislature chose not to proceed with any of them.

This 2017 session has seen some similar measures which brings us to SB 249, S.D.2, which focuses solely on reducing judges' retirement benefits.

To an outside observer, given the lack of any other stated reason for this legislative action, it could lead to the conclusion that SB 249, S.D.2 is in reaction to Judge Castagnetti's ruling in the Nelson case.

Nationally, we are seeing a different branch of government, the Executive this time, respond to specific court rulings regarding the travel ban in negative terms. President Trump has called Seattle Federal District Court Judge James Robart, a "so-called judge" and he has criticized Hawaii Federal District Court Judge Derrick Watson's recent decision as "political." Fortunately, these federal judges are protected by the Constitution with lifetime appointments to make decisions as the Constitution, statutes, and the facts of a specific case call for, and not have to fear adverse action by the other two branches of government in response to their decisions.

I cannot imagine the Hawaii legislature, with so much to be proud of in its storied history, would in any way want to be lumped together with President Trump in responding officially against another branch of government based on a ruling in a specific case.

I hope I am wrong about this, and that there are, other legitimate reasons why the legislature is considering passing SB 249, S.D.2, but as of now, I don't see any and that saddens me.

Based on these considerations, I write in opposition to SB 249, S.D.2. Thank you for the opportunity to be heard.

Steve S. Alm (808) 7412009 or stevenscottalm@gmail.com

TESTIMONY OF THOMAS D. FARRELL
Regarding Senate Bill 249, SD2 Relating to Retirement

Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair

Tuesday, March 21, 2017, 10:00 a.m.
Conference Room 309, State Capitol

Good morning Representative Johanson and members of the Committee:

I strongly oppose Senate Bill 249,SD2 which is one of a package of bills originating in the Senate Judiciary Committee and designed to degrade Hawaii's judiciary. This is just another version of a measure to cut judge's retirement pay, which died in the 2016 session. This one is a little different, however, as it applies only to new judges.

If this is such a good idea, how is it that only judges have been selected to be reduced to a 2% multiplier, but you folks haven't? After all, members of this Legislature get a 3% multiplier.

Some say that judges are highly paid (although I think legislators are rather highly paid for 3 ½ months of work). Nonetheless, I've heard the argument that we can save more money cutting judges' retirements than legislators'. The only problem with that theory is that the ERS says you aren't going to save any money at all.¹

This new variant of last year's failed bill is motivated by the same animus. I can express it in three words: Judge Jeanette Castegnetti. On November 27, 2015, in *Nelson v. HHL*, she held, "The legislature has failed to appropriate sufficient sums to the Department of Hawaiian Home Lands for its administrative and operating budget in violation of its constitutional duty to do so. This failure includes every fiscal year since at least 1992." And according to reports I've read, that shortfall reaches somewhere in the neighborhood of \$28 million. Senator Tokuda and Representative Souki were pretty upset when they learned that you could have a \$28 million wild card in the State budget. Let's not kid ourselves; this is what SB 249 and the rest of the package to punish the judicial branch are all about.²

¹ In testimony before last year before the House Finance Committee, ERS said "This unique segment (of a current membership group of approximately 80 judges) will require computer modification and counseling resource costs which, from a business perspective, the ERS believes will be out of proportion to the members affected by this legislation.

² The most odious bills in the package were SB 673 and 328, both of which proposed to require judges to require periodic reconfirmation. Notwithstanding an avalanche of testimony in opposition, SB 328 was reported out of JDL, Divorce ♦ Paternity ♦ Custody ♦ Child Support ♦ TROs ♦ Arbitration
also handling national security cases involving revocation or denial of security clearances

Testimony of Thomas D. Farrell
SB 249, SD2
March 19, 2017
page 2

Now I don't know if Castagnetti is right or not, although it seems to me to be a good thing that there is some way for the Hawaiians to enforce the rights and benefits promised to them by our Constitution and laws. Yet even if it's a bad decision, it would seem to me that the last thing you would want to do is create even more bad decisions, which is what you get when you have bad judges.³ SB 249 is a sure ticket to judicial mediocrity.

If you're any good as a lawyer, you make a lot more practicing law than you do as a judge. While money isn't everything, it's expensive to live in Hawaii. Judicial compensation is a package deal, based on the principle of deferred gratification. You agree to work for a lower salary, but the retirement plan is pretty good. Now if you're a successful lawyer and around forty years of age, is it a good deal to seek a judgeship? Assuming you've got at least 25 years left in the workplace, with a 3% multiplier you can retire at 65 with 75% of your salary. If SB 249 passes, the prospective judge is looking at 50% of salary at 65, and 60% if you stay on until age 70 (at which time you have to go). That's not looking so good.

So while this Legislature is arguing about whether to give the judiciary the money to create new judgeships, that will be a moot point if you pass SB 249. You'll wind up with a whole bunch of judicial vacancies that can't be filled, or can be filled only with the independently wealthy or those who couldn't cut in in private practice.

The bottom line is that the less desirable you make the position, the less desirable will be candidate who seeks it. It is within your authority to make sure that SB 249 goes no further, and I urge you to do so.

but did not cross-over. I still worry, however, that its contents will be tacked on to some other bill by a conference committee meeting in the dark of night.

³ For the record, I do not know the judge in question, nor have I read the decision. I have no opinion on whether this is a good judge, a bad judge, or somewhere in the middle.

Testimony to the House Committee on Labor & Public Employment
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice-Chair

Tuesday, March 21, 2017, 10:00 a.m.
State Capitol, Conference Room 309

SB 249, SD2

I am Ronald T.Y. Moon, former Chief Justice of The Supreme Court of Hawai'i (1993–2010). I strongly oppose SB 249, SD2.

My experience of serving as a judge and justice for approximately 30 years convinces me that this bill that reduces employee benefits is unfair and unjust by singling out—and discriminating against—judges.

In 2011, the Legislature made a policy decision to reduce the retirement benefits across the board for Legislators, judges, and senior executive branch officials.

Unlike the 2011 legislation, this bill focuses solely upon and affects only judges. I submit that the bill is unconstitutional.

Further, the relatively small number of people it would affect will not meaningfully reduce the future fiscal responsibilities of the State. Indeed, I understand that the State Employees' Retirement System has testified as much by noting that, "from a business perspective, the ERS believes [the downward adjustment proposed in this bill] may be disproportionate to the small number of members affected by this legislation."

Thank you for the opportunity to submit testimony in opposition to SB 249, SD2.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 17, 2017 9:55 PM
To: LABtestimony
Cc: legallybrandon@gmail.com
Subject: *Submitted testimony for SB249 on Mar 21, 2017 10:00AM*

SB249

Submitted on: 3/17/2017

Testimony for LAB on Mar 21, 2017 10:00AM in Conference Room 309

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Testimony re SB249, SD 2

I respectfully oppose SB 249, SD 2.

A number of Bills effecting judicial selection and service have been submitted to our Legislature over the last couple of years which I have followed carefully. I believe that, collectively, these Bills are aimed at reducing benefits for our judges and justices and at increasing the challenges to judicial service and retention.

By way of brief introduction, I have been a lawyer in Hawaii since about 1971, practicing as a business and trial lawyer. I served our State for over 18 years as a Circuit Court Judge (12 years as Chief Judge) in Maui. I also served on a number of occasions as a Substitute Justice on our Hawaii Supreme Court; and I served for 7 years as a Per Diem District/Family court Judge in Maui. I was mandatorily retired at age 70. Since I retired, I have served on the Judicial Council and the Judicial Evaluation Panel that evaluates our judges. As a result, I have experience in almost all of our courts, as both a judge and as a trial lawyer.

The various Bills submitted to our Legislature over the last couple of years have been astonishing. They have ranged from Bills that seek to change our judicial selection process from merit selection to a process based upon elections; and, to a system in which all judicial terms are limited to only 6 years. Very few of these Bills have been supported with reasons or justifications to support or explain how these changes will benefit our State. I have not believed that these changes will be in the best interests of our State and I have provided testimony on each accordingly. Taken all together, the many changes to our Judiciary which these Bills have sought to promote; and, very importantly, the resulting uncertainties that these Bills have created surrounding the future and substance of judicial service in Hawaii, have in my opinion created a deterrence to our best, most qualified and experienced lawyers from seeking to serve as judges and justices.

SB 249, SD 2, is a good example of this trend. First, the language of the law concerning the computation of judicial retirement benefits have become very complicated; and the potential retirement benefits for our judges and justices have been substantially reduced. The "percentage" utilized in the formulae which has been used to determine the amount of judicial retirement benefits has, for many years, been 3 ½%. This "percentage" was recently reduced to 3%. And now SB 249, SD 2, seeks to reduce the relevant "percentage" to 2%. This is a huge decrease in potential retirement benefits in a very short period of time, with no justification. This kind of disincentive is very likely to deter highly qualified lawyers from seeking judicial service. I believe that lawyers whose skills have developed and been honed over many years in the crucible of the courtroom will make the best judges and justices.

I certainly agree that most lawyers who seek judicial office do so, first and foremost, for altruistic reasons. I am certain that all Hawaii lawyers agree that it is a great honor to be selected, and, then, confirmed by our Senate, to serve as a judge or justice in our unique and wonderful State. It is in the public interest that the best and most experienced lawyers be

encouraged to serve as our judges and justices. Encouraging lawyers of the highest experience and competence are crucial for justice.

SB 249, SD 2, gives no reasons or justifications for the drastic reduction in benefits it mandates. The trend of reductions in judicial benefits suggests that the next reduction might be to 1%, or even to something lower. Whatever the future “percentage” might be, any lawyer contemplating a change of career to judicial service surely will be alarmed that there is an effort afoot to substantially reduce benefits for judicial service. This uncertainty is not in the best interests of our citizens.

In any case, a lawyer considering judicial service must first consider the mandatory age 70 limit. Under the current state of affairs a judge cannot retire before 60 without penalty; and, he or she must retire at age 70. This is the only public office in Hawaii that provides for mandatory retirement. The age 70 limitation, in turn, places a limit upon the potential retirement benefit that the applicant and his or her family can contemplate for their future. Generally speaking, it takes about 20 years of judicial service in order to qualify for a full retirement benefit. An age 70 mandatory retirement, together with a much-reduced retirement “percentage”, as described above, means that a lawyer over 50 will be much less likely to consider judicial service. Add to this the uncertainty that the recent spate of Bills negatively effecting and/or purporting to change retirement benefits, together with other proposed selection and retention challenges, and one can appreciate that these proposed changes will reduce the pool of highly qualified candidates for judicial office.

For the reasons stated herein, I recommend against adoption of SB 249, SD2.

March 20, 2017

Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
House of Representatives
Hawaii State Capitol
415 So. Beretania Street
Honolulu, HI 96813

Testimony to the House Committee on Labor & Public Employment
Re: SB 249, SD2

Dear Representatives Aaron Ling Johanson, Chair and Daniel Holt, Vice Chair
and members of the Committee:

I oppose SB 249, SD 2.

My name is Momi Cazimero. I am **a concerned citizen**. After establishing my business in 1972, I began serving on community boards, including the Judicial Selection Commission. I also served on both the national and Hawaii boards of the American Judicature Society (AJS) and now serve on the Judicial Performance Evaluations panel under Rule 19. Through these roles and encounters, I've observed and learned of the Hawaii and national court systems that affirm my support for a strong and viable judiciary.

What our citizens want from the State of Hawai'i Judiciary above all else—is fairness. Ironically, SB 249, SD2 singles out judges with a bill to reduce their retirement benefits. It is ironic and highly questionable—biased, unfair, prejudicial, and discriminating.

I would like members of the Legislature to fully explain this questionable attempt to compromise the efforts I have invested as a concerned citizen to recruit and review, for the sake of improvement, the performance of judges in pursuit of elevating our State Judiciary.

I am disappointed, and find this bill a contradiction to my personal efforts as a concerned citizen.

Respectfully submitted,
Momi Cazimero

SB 249, SD2

Late Testimony

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
DEPUTY EXECUTIVE DIRECTOR

LATE

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

WRITTEN ONLY

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

TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON

LATE

SENATE BILL NO. 249, S.D. 2

MARCH 21, 2017, 10:00 A.M.
Room 309

LATE

RELATING TO RETIREMENT

Chair Johanson, Vice Chair Holt and Members of the Committee,

S.B. 249, S.D. 2 would reduce the retirement benefits for judges who first earn credited service as a judge after June 30, 2017, by amending Section 88-74, Hawaii Revised Statutes.

The Employees' Retirement System (ERS) Board of Trustees has concerns regarding the current draft of this legislation as it is administratively inconsistent with other benefit provision subsections in Section 88-74. To reduce the benefit multiplier for judges who first earn credited service as a judge after June 30, 2017, we recommend the attached revision.

On behalf of the Board of Trustees, thank you for the opportunity to testify.



Employees' Retirement System
of the State of Hawaii

Date: March 21, 2017

To: The House Committee on Labor and Public Employment

From: Employees' Retirement System of the State of Hawaii

Re: Proposed Amendment to S.B. 249, S.D. 2

Section 1, Subsection 2

ERS proposes the following amendments to S.B. 249, S.D. 2:

2. By amending subsections (g) and (h) to read:

"(g) If a member, who becomes a member after June 30, 2012, has credited service as a judge~~[-]~~:

(1) For a member who first earned credited service as a judge prior to July 1, 2017, the member's retirement allowance shall be computed on the following basis:

~~[(+)]~~ (A) For each year of credited service as a judge, three per cent of the member's average final compensation in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service. If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained age sixty, reduced for age as provided in subsection (i);

~~[(2)]~~ (B) For a judge with other credited service, as provided in subsection (f). If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained age sixty, reduced for age as provided in subsection (i); and

~~[(3)]~~ (C) For a judge with credited service as an elective officer or as a legislative officer, as provided in subsection (h)~~[-]~~; and

(2) For a member who first earned credited service as a judge after June 30, 2017, the member's retirement allowance shall be computed on the following basis:

- (A) For each year of credited services as a judge, two per cent of the member's average final compensation in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service. If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained age sixty, reduced for age as provided in subsection (i).
- (B) For a judge with other credited service, as provided in subsection (f). If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained age sixty, reduced for age as provided in subsection (i); and
- (C) For a judge with credited service as an elective officer or as a legislative officer, as provided in subsection (h).

No allowance shall exceed seventy-five per cent of the member's average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in paragraphs ~~(4)~~ (1)(A) and (2)(A) and the portion of the accumulated contributions specified in paragraphs ~~(4)~~ (1)(A) and (2)(A) in excess of the requirements of the reduced annuity shall be returned to the member upon the member's retirement or paid to the member's designated beneficiary upon the member's death while in service or while on authorized leave without pay. The allowance for judges under this subsection, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of the member's average final compensation.

(h) If a member, who becomes a member after June 30, 2012, has credited service as an elective officer or as a legislative officer, the member's retirement allowance shall be derived by adding the allowances computed separately under paragraphs (1), (2), (3), ~~and~~ (4), and (5) as follows:

- (1) Irrespective of age, for each year of credited service as an elective officer, three per cent of the member's average final compensation as computed under section 88-81(f)(1), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service;

- (2) Irrespective of age, for each year of credited service as a legislative officer, three per cent of the member's average final compensation as computed under section 88-81(f)(2), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service;
- (3) For a member who first earned credited service as a judge prior to July 1, 2017, for each year of credited service as a judge, three per cent of the member's average final compensation as computed under section 88-81(f)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service. If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained the age of sixty, reduced for age as provided in subsection (i); and
- (4) For a member who first earned credited service as a judge after June 30, 2017, for each year of credited service as a judge, two per cent of the member's average final compensation as computed under section 88-81(f)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service. If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained age sixty, reduced for age as provided in subsection (i); and
- ~~[(4)]~~(5)For each year of credited service not included in paragraph (1), (2), ~~[(3)]~~ (3), or (4), the average final compensation as computed under section 88-81(f)(4) shall be multiplied by one and three-fourth per cent for credited service earned as a class A or class H member, two and one-fourth per cent for credited service earned as a class B member, and one and one-fourth per cent for credited service earned as a class C member. If the member has not attained age sixty, the member's retirement allowance shall be computed as though the member had attained age sixty, reduced for age as provided in subsection (i).

The total retirement allowance shall not exceed seventy-five per cent of the member's highest average final compensation calculated under section 88-81(f)(1), (2), (3), ~~[(4), or (5)]~~. If the allowance exceeds this limit, it shall be adjusted by reducing any annuity accrued under paragraphs (1), (2), ~~[and] (3), and (4)~~ and the portion of the accumulated contributions specified in these paragraphs in excess of the requirements of the reduced annuity shall be returned to the member upon the member's retirement or paid to the member's designated beneficiary upon the member's death while in service or while on authorized leave without pay. If a member has service credit as an elective officer or as a legislative officer in addition to service credit as a judge, then the retirement benefit calculation contained in this subsection shall supersede the formula contained in subsection (g)."



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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

LATE

LATE

LATE

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

Testimony by
Hawaii Government Employees Association

March 21, 2017

S.B. 249, S.D. 2 – RELATING TO RETIREMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of S.B. 249, S.D. 2 which reduces the average final compensation used to calculate the retirement benefit for newly hired judges.

As written, this bill represents the second time in five years that the Legislature has sought to reduce the retirement benefits for employees; however, unlike the broad changes enacted for all employees hired after June 30, 2012, contained in Act 163, Session Laws of Hawaii 2011, the proposed changes contained in S.B. 249, S.D. 2 singles out one class of employees: judges. We respectfully raise strong concerns over targeting one small group of employees since it is not clear whether the proposed changes in retirement calculation will have a significant impact on reducing the Employees' Retirement System's unfunded liability. Further, we firmly believe that compensation packages for all employees – judges included – must be competitive in order to attract and retain the best and the brightest workers in our state.

Thank you for the opportunity to testify in opposition to S.B. 249, S.D. 2.

Respectfully submitted,

Randy Perreira
Executive Director



HAWAII FIRE FIGHTERS ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 1463, AFL-CIO
1018 PALM DRIVE, HONOLULU, HAWAII 96814-1929
TELEPHONE (808) 949-1566 FAX: (808) 952-6003
WEBSITE: www.hawaiifirefighters.org

LATE

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

March 21, 2017

Committee on Labor and Public Employment

LATE

LATE

Testimony by

Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO

S.B. No. 249 S. D. 2

RELATING TO RETIREMENT

The Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO represents more than 1,900 professional active-duty and 800 retired fire fighters throughout the State. On behalf of our members, HFFA **opposes S.B. No. 249 S.D. 2.**

S. B. No. 249 proposes to create an additional tier of pension benefits for judges by further reducing the percentage of average final compensation of a judge's benefits based on the stipulations of if a member earned credited years of service and attained age 60 or a member has not yet attained age 60 after June 30, 2017. HFFA believes that this change violates Article XVI, Section 2 of the Constitution of the State of Hawaii which provides that accrued benefits "shall not be diminished or impaired" and as a matter of public policy, this proposal is not fair and certainly not in the best interest of our community.

Reducing the retirement benefits for judges potentially opens the door for the reduction of benefits for other public sector employees.

HFFA urges your Committee to hold this bill. Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 20, 2017 12:21 PM
To: LABtestimony
Cc: tmhifo@aol.com
Subject: Submitted testimony for SB249 on Mar 21, 2017 10:00AM

SB249

Submitted on: 3/20/2017

Testimony for LAB on Mar 21, 2017 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Eden Hifo	Individual	Oppose	No

Comments: I strongly oppose this measure as it treats judges' retirement formula differently (and detrimentally) from legislators, elected officials, among others. In the past, any changes in the retirement benefits were made to effect all three branches of government as co-equal branches. That is the intent of the framework of our Hawaii State Constitution. In addition, based upon a review of the ERS testimony there is no significant financial reason to treat the some 80 judges differently from others now receiving 3% instead of the proposed 2%. Other groups including firefighters are honored with the higher retirement percentage calculation. The proposed disparity makes no common sense and only suggests the judiciary is held in low esteem by the legislature. Whatever generates that impression, there are many other and constitutionally intended ways to operate as a check and/or balance on the judicial branch. Limiting retirement benefits of new judicial appointees after June 30, 2017, or any other time without similar treatment of legislators and elected officials is not among them nor was it contemplated by the framers of our Constitution. Thus, I respectfully urge you not to move this bill out of Committee. Thank you for your consideration. (Please note the online testimony website was only re-activated which accounts for this offered testimony missing the deadline by 17 minutes. I hope you will consider it among the other public comments. Thank you, Eden Elizabeth Hifo (Retired circuit court judge)

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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LATE

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 21, 2017 8:03 AM
To: LABtestimony
Cc: suzy.okino@gmail.com
Subject: *Submitted testimony for SB249 on Mar 21, 2017 10:00AM*

SB249

Submitted on: 3/21/2017

Testimony for LAB on Mar 21, 2017 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Suzy Okino	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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