

STAND. COM. REP. NO.

2119

Honolulu, Hawaii

FEB 09 2018

RE: S.B. No. 2766
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Labor, to which was referred S.B. No. 2766
entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT
SYSTEM,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the
applicability of benefits for accidental death and service-
connected disability benefits for members of the Employees'
Retirement System (ERS).

Your Committee received testimony in support of this measure
from the Board of Trustees of the Employees' Retirement System.

Your Committee finds that as a trust fund, ERS assets are for
the exclusive benefits of its members and beneficiaries. The
Supreme Court of Hawaii issued a memorandum of opinion on July 10,
2017, on an appeal of a decision by the ERS Medical Board. The
Court found that section 88-21, Hawaii Revised Statutes, defines
"service" to include any "service as an employee paid by the State
or county", and found additional language that indicates that
"connected" service includes non-ERS-membership state or county
service, as long as the member makes ERS contributions during the
non-ERS-membership state or county service. Separately defined is
"membership service" as "all service rendered by a member for
which the member had made the required contributions to the



system". The Court made the distinction between "service" and "membership service" and noted that section 88-79, Hawaii Revised Statutes, provides for "service-connected disability retirement" and not "membership service-connected disability retirement". Based on this opinion, it may be construed that "service" includes persons working in governmental functions paid by the State or county who are not members of the ERS. This measure clarifies that benefits related to service-connected disability and accidental death benefits are limited to members who are beneficiaries of the trust.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2766, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2766, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Labor,

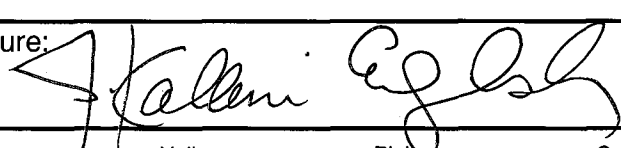


JILL N. TOKUDA, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Labor
LBR

Bill / Resolution No.:* SB 2766	Committee Referral: LBR, WAM	Date: 01/30/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	✓			
ENGLISH, J. Kalani (VC)	✓			
CHANG, Stanley	/			
IHARA, Jr., Les	/			
TANIGUCHI, Brian T.	/			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes