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

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

P.O. BOX 150
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY LAUREL A. JOHNSTON
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2333, S.D. 1

**February 22, 2018
10:10 a.m.
Room 211**

RELATING TO RETIREMENT SAVINGS

Senate Bill No. 2333, S.D. 1, establishes the Hawai'i Retirement Savings Plan; establishes a Hawai'i Retirement Savings Board to administer the plan; and sets operating and reporting requirements for the plan and the board, including the completion of a market analysis on the retirement plan's feasibility. The bill also establishes a Hawai'i Retirement Savings Plan Administrative Fund and appropriates general funds and special funds in FY 19 for administrative and operating expenses and to conduct the required market analysis.

The Department of Budget and Finance strongly believes that it would be premature to statutorily establish the retirement savings plan, the board, and the special fund without conducting a study to determine the feasibility of the retirement savings plan concept. The types of issues involved are recognized and identified in Section 3 of the bill.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
DEPUTY EXECUTIVE DIRECTOR

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

WRITTEN ONLY

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

TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2333, S.D. 1

February 22, 2018
10:10 A.M.
Conference Room 211

RELATING TO RETIREMENT SAVINGS

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee,

S.B. 2333, S.D. 1, would establish a Hawaii retirement savings board to administer the Hawaii retirement savings plan for private sector employees in order to achieve economic security, improve economic mobility, and reduce wealth disparity. The Board would be administered by the Department of Budget and Finance and would include a representative from the Employees' Retirement System to be selected by the Governor.

The Staff of the Employees' Retirement System supports the intent of this legislation; however, it concurs with the comments provided by the Department of Budget and Finance which suggests conducting a study of the feasibility of the retirement savings plan concept prior to the establishment of the plan, the board and the special fund provided by S.B. 2333, S.D. 1.

Thank you for the opportunity to provide comments on this legislation.



Employees' Retirement System
of the State of Hawaii

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO SB 2333, RELATING TO RETIREMENT SAVINGS

February 22, 2018

Honorable Senator Donovan M. Dela Cruz, Chair
Committee on Ways and Means
State Senate
Hawaii State Capitol, Conference Room 211
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Dela Cruz and Committee Members:

Thank you for the opportunity to testify in opposition to SB 2333, Relating to Retirement Savings.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C., based trade association with approximately 290 member companies operating in the United States and abroad. ACLI advocates in state, federal, and international forums for public policy that supports the industry marketplace and the policyholders that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing 95 percent of industry assets, 93 percent of life insurance premiums, and 98 percent of annuity considerations in the United States. Two hundred twenty-one (221) ACLI member companies currently do business in the State of Hawaii; and they represent 96% of the life insurance premiums and 100% of the annuity considerations in this State.

Section 1 of SB 2333 states the purpose of the bill “is to establish a Hawaii retirement savings board to administer the Hawaii retirement savings plan for private sector employees.”

The proposed retirement savings plan is an AARP branded state-run retirement plan called “Work and Save.” This AARP plan has been introduced in approximately 30 states, most of which have rejected it. It is an expensive employer mandate that requires the business owner to offer the state plan and automatically enroll their workers. It also creates significant liabilities for the state.

By way of background, since 2012, five states have adopted state created and run retirement plans similar to that proposed in SB 2333, namely, California, Connecticut, Illinois, Maryland and Oregon. At least 10 other states have passed legislation studying the AARP plan, and those states have not moved forward to implement the plan they studied.

While ACLI is strongly committed to promoting retirement security both at the state and federal levels, ACLI joins with many employer groups in opposing enactment of the proposed AARP plan set forth in this bill.

Of the five states who have adopted the plan only one, Oregon, has begun to implement its plan, though that plan has already been challenged in court. The remaining four states have not yet moved forward and for good reasons.

These plans are costly, complex and potentially in conflict with federal law.

The costs of implementing these plans have ranged from \$18M in Illinois to \$45M in Connecticut and \$170M in California.

While the State of Hawaii should as a matter of policy encourage all of its residents to accumulate the savings they need to secure their own retirement, the wisdom of the State's spending its scarce resources to fund the cost of a state-run retirement plan may be questioned. Indeed, as this Committee is well aware, funding the state's own employees' retirement plan and other costly government funded programs has been and continues to be challenging.

Secondly, the legal status of the proposed retirement savings plan creates both conflicts and potentially large state liabilities.

The employer mandate in the state-run and administered retirement savings plan proposed by SB 2333 is likely pre-empted by federal law. In addition, the auto-enrollment provisions in the bill will very likely subject business owners to liabilities under ERISA.

While in 2016 the Department of Labor (DOL) adopted ERISA safe harbor rules that could have allowed these plans, the rules also required the sponsoring state to meet certain requirements that would add even more costs. For example, the state had to take responsibility (i.e., assume liability) for the safety of the plan's investments and was required to provide a mechanism for enforcement of worker rights under the plan. In 2017, however, Congress determined that all private workers deserve the protection of ERISA and disapproved the DOL safe harbor in a resolution passed under the Congressional Review Act. Thus, there is no longer any ERISA safe harbor for these state-run plans.

The U.S. Chamber of Commerce has since received a definitive legal opinion that the AARP plan will likely be determined to be an employer-sponsored plan subject to and governed by ERISA. The opinion also concludes that the plan's provisions will most likely be found to be pre-empted by ERISA and therefore the plan could be challenged in court – in which case the state's money spent on implementing the plan will have been wasted. At the very least employers will be found to be the fiduciaries of the plan and become responsible for all of the obligations under ERISA that the sponsoring state refused to assume¹. The Courts will ultimately determine the legal status of these plans. The State's adoption of SB 2333 will, therefore, force the small business owner, his or her employees and the State of Hawaii to enter into a costly program that may create enormous liabilities for both.

¹ By its terms SB 2333 states that each board member of the Hawaii Retirement Savings Board established under the plan and the State of Hawaii “shall not guarantee any rate of return or any interest rate on any contribution; provided that the plan, the board, each board member, and the State may not be liable for any loss incurred by any person as a result of participating in the plan.” See page 10, lines 1 through 5, SB 2333.

The flawed assumption underlying SB 2333's proposed State run retirement savings plan is that there is a lack of access to retirement plans in the private sector.

To the contrary, the current market place offers a wide variety of low cost and affordable vehicles that facilitate worker retirement savings. These include, for example, individual and payroll deduction IRAs, SIMPLE plans for small employers, and individual annuities

The need, therefore, for mandating a state-sponsored and state-run retirement plan that competes with the private sector and could cost millions of dollars to implement and run has not been shown by the bill's proponents.

ACLI submits that the focus of the state's efforts should not be creating a costly state-sponsored and run retirement plan but rather by addressing the real obstacles to retirement savings – job insecurity, debt and lack of funds to invest. ACLI is also prepared to support the alternative concept of a voluntary, private-sector based marketplace approach, such as the one adopted in the State of Washington.

In May 2015, Washington State enacted and funded the first voluntary small business retirement plan "Marketplace" in the nation, which establishes a web-portal structure to connect private sector employers with qualifying plan vendors. Additionally, the Washington State plan does mailings and outreach to eligible employers or other organizations that interact with these employers. A second-in-the-nation Marketplace was established in New Jersey shortly thereafter (January 2016) and was largely based on the Washington State law.

The Washington State plan provides a good model for small business private market place programs.

For the foregoing reasons ACLI must respectfully oppose SB 2333 and urges this Committee to defer passage of this bill.

Again, thank you for the opportunity to testify in opposition to SB 2333, Relating to Retirement Savings.

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HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai‘i Appleseed Center for Law and Economic Justice
Supporting SB 2333 SD1 – Relating to Retirement Savings
Senate Committee on Ways and Means
Scheduled for hearing at 10:30 am on Friday, February 23, 2018, in Conference Room 211

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **SB 2333 SD1**, which would establish a retirement savings board to administer the Hawai‘i retirement savings plan. That would be a good step for the state to take towards helping our workers adequately save for retirement.

While Hawai‘i’s official elderly poverty rate of 8 percent is lower than the national average, it is the 22nd highest rate among the states. More importantly, if you look at the U.S. Census Bureau’s arguably more accurate supplemental poverty measure, Hawai‘i’s senior poverty rate rises to 17 percent, the 6th highest rate in the nation. Much of this difference is due to the fact that the supplemental measure factors in the cost of living (which are higher in Hawai‘i than in any other state in the nation).ⁱ

In addition, if you look at people aged 65 and older with incomes below 200 percent of the poverty level, Hawai‘i’s indicators worsen considerably. Even by the official measure, over one quarter (27 percent) of Hawai‘i’s elderly live below twice the official poverty threshold. Astoundingly, over half (54 percent) of Hawai‘i’s seniors have incomes below 200 percent of the supplemental measure, which is the 2nd highest rate among the states.

Meanwhile, 86.1 percent, or about 210,000, Hawai‘i residents aged 65 or older received Social Security benefits in 2016, which was lower than the national average of 90.4 percent.ⁱⁱ Hawai‘i seniors received a median monthly Social Security benefit of \$1,332, just below to the national average of \$1,347.ⁱⁱⁱ However, as noted above, our seniors have to contend with the highest cost of living among all the states.

With our ever-growing senior population facing statistics like that, encouraging and enabling our working-age population to save for retirement is crucial to our state’s future economic health.

According to the AARP, half of our state’s private sector workers do not have access to an employer-sponsored retirement plan, and very few who are eligible to contribute to an individual retirement account actually do so. Low-wage workers are especially unlikely to have a retirement plan available to them at their workplace.

The vast majority of Hawai‘i registered voters polled by AARP wish that they had more retirement savings, are concerned that some of their fellow residents will end up on public assistance programs in

retirement, and agree that lawmakers should do more to make it easier for small business owners to offer their employees a way to save for retirement.^{iv}

Dozens of states have been considering the ways that they could help their workers save more via state-managed retirement plans. In fact, five states – California, Connecticut, Illinois, Maryland, and Oregon – have enacted legislation to create automatic enrollment retirement savings plans for their workers.

According to the Center for Economic and Policy Research, one major advantage of state plans is that workers could keep their accounts with them when they change jobs.^v In addition, the fees of state-managed plans would likely be just a fraction of those levied by private 401(k)s:

This may seem like a small difference, but it adds up over a worker's career. Imagine a person earning \$60,000 a year and putting 6 percent of their pay, or \$3,600 a year, into a 401(k) for thirty years. At the end of thirty years, the difference between a plan with annual administrative costs of 0.3 percent and a plan with costs of 1.0 percent would be almost \$30,000. (This calculation assumes a 5.0 percent average annual nominal return.)

The difference would be even larger if we factored in that private accounts are likely to charge between 10 to 20 percent of savings to convert the sum into an annuity when workers retire. A public plan would charge considerably less.

Another important feature of many of these types of plans is automatic enrollment. According to the AARP, 90 percent of those who are participating in employer-sponsored retirement programs state having their savings automatically deducted from their paychecks is very important and makes it easier for them to save.

We need to start now to ensure that as few of our future retirees as possible end up struggling in poverty. Mahalo for your consideration of this testimony.

ⁱ <https://www.kff.org/report-section/poverty-among-seniors-issue-brief/>

ⁱⁱ https://www.ssa.gov/policy/docs/statcomps/oasdi_sc/

ⁱⁱⁱ <https://www.ssa.gov/policy/docs/statcomps/supplement/2017/index.html>

^{iv} https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2016/2016-Hawaii-Work-and-Save-Onepager-AARP-res-econ.pdf

^v <http://cepr.net/blogs/beat-the-press/the-paul-ryan-small-savers-tax>

SB-2333-SD-1

Submitted on: 2/21/2018 11:36:58 AM

Testimony for WAM on 2/23/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nisei Building Maintenance Company Inc	Testifying for Nisei Building Maintenance Company, Inc.	Support	No

Comments:



HAWAII

Senate Committee on Ways and Means
February 23, 2018 at 10:30 am – Room 211

RE: SB 2333, SD1 -- RELATING TO RETIREMENT SAVINGS

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life insurance agents and financial advisors throughout Hawaii, who primarily market life, annuities, long term care, and disability income insurance products.

SB 2333, SD1, will enact a Hawaii Retirement Savings Board made of eleven members that will establish, implement and maintain a Hawaii retirement savings plan via voluntary payroll deductions provided that the employer does not offer a qualified retirement plan. This measure also requires a market analysis on the feasibility of a plan, cost to employers, a timeline for implementation, a blank appropriation, and that contributions start no later than July 1, 2021.

We do not support SB 2333, SD1.

Both policymakers and media attention have focused on workers not saving enough for retirement. States have considered bills that would implement state run IRA type retirement plans options available to workers at small and medium companies. NAIFA understands the importance of retirement security and acknowledges that many Americans are not saving enough for retirement.

A lack of financial education about the need to save for retirement, competing financial needs which cause many to live from paycheck to paycheck with nothing left over each month to put away in a retirement account, as well as a lack of discipline needed to place long term security over immediate wants all play a large role in our country's retirement savings.

We do not believe that a state-run plan that competes with private market plans is the answer. Availability and access to retirement savings options are not the problem— there already exists a strong, vibrant private sector retirement plan market that offers diverse, affordable options to individuals and employers. If a retirement plan is not offered in the workplace, employees have ready access to low cost IRAs through financial institutions and financial advisors.

Analyzing the potential effectiveness of legislative proposals to address the real reasons behind the low rates of retirement savings, policy makers need to carefully consider the potential costs of this proposal and the impact it will have on already over-extended state budget. States like New Jersey and Washington have enacted plans with a voluntary, market based program focused on the real problems

of education and outreach and establishes a web-based clearinghouse to connect employers and employees with appropriate private sector options. The implementation and staffing costs are much lower than what's called for in this measure.

The use of state funds for the start-up, operating costs, state responsibilities and obligations under ERISA would be better served by using scarce state resources for education and outreach efforts designed to educate our citizens about the importance of saving for retirement, rather than implementing a costly state-run plan.

On April 6, 2016, the U.S. Department of Labor issued its final fiduciary rule that affects financial advisors and their clients' retirement plans. Since the Trump administration the fiduciary rule is partially final with a transition period of eighteen months from January 1, 2018 to July 1, 2019. The "retirement savings board" must take into account this new fiduciary standard rule, the legal term for "putting customers' interest first" and be fully aware of the compliance requirements.

Finally, in August 2016 the U.S. Department of Labor under the Obama administration adopted a rule that would facilitate the enactment of state-run retirement plan legislation by exempting such plans from coverage under ERISA. Under this DOL rule, these state programs would not be considered a "employee pension benefit plan" under ERISA and participating employers would therefore not be subject to the duties and responsibilities required by ERISA.

However, **in early 2017 the Congress utilized the Congressional Review Act to override this DOL action and nullify this rule.** As a result, many open questions exist as to whether and to what extent these state-run plans will be subject to duties, responsibilities and potential liability under the federal ERISA law. **The "safe harbor" under the ERISA exemption is no longer in effect and now, participating employers will be subject to the duties and responsibilities currently required by ERISA.**

Thank you for allowing us to share our views.

Cynthia Takenaka
Executive Director
Phone: 394-3451



TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 22, 2018

Re: SB 2333 SD1 Relating to Retirement Savings

Good morning Chairperson Dela Cruz and members of the Senate Committee on Ways and Means. I am Tina Yamaki, President of the Retail Merchants of Hawaii.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization committed to supporting the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

We support SB 2333 SD1 which establishes a retirement savings board to administer the Hawaii retirement savings plan, establishes the Hawaii retirement savings plan administrative fund, requires the board to report to the legislature before establishment of the Hawaii retirement savings plan, and appropriate funds for the purposes of the bill.

We recognize that Oregon, who was the first state to implement a state retirement program for private-sector employees, appears to be very successful. 3,350 employees throughout the state have enrolled in this program and have already saved over \$600,000 for retirement during the first six months alone during the pilot program.

Currently many companies in Hawaii, especially smaller local businesses are unable to afford to administer retirement or even 401K plans. It is our understanding that this measure would help to lessen the fiduciary burdens and would help many businesses provided an added benefit to their employees by offering a retirement savings plan through a payroll deduction program. This may be the incentive that many employees need to begin saving for retirement that may be years down the line.

Businesses like everyone want to see our kapuna enjoy retirement and not having to rely on public assistance programs and this bill would help to accomplish this.

We hope that you support this measure.

Mahalo for the opportunity to testify.

SB-2333-SD-1

Submitted on: 2/22/2018 8:27:37 AM

Testimony for WAM on 2/23/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Toole	Individual	Support	No

Comments:

My name is Sarah Toole, I live at 1128 Ala Napunani St 96818 and I support this measure.

SB-2333-SD-1

Submitted on: 2/22/2018 9:23:46 AM

Testimony for WAM on 2/23/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marc Barra	Individual	Support	No

Comments:

Aloha WAM Committee,

I am in strong support of SB2333. This bill is the first step in creating a savings plan that covers private sector workers like myself who do not have access to an employer initiated retirement plan. I work for a family run small business, which cannot afford the fees associated with setting up retirement plans for their employees. This puts my family and ultimately myself at a disadvantage in saving for retirement. Being able to have money deducted directly from my payroll is a huge advantage in helping to save for retirement.

Years ago, the state determined it was important for people to save for college and created the State administered hi529 college saving plan. If the State can administer a saving plan for college, they can and should help taxpayers who want to save for retirement. Saving for retirement is just as important as saving for college and there are no "college loans" for retirement!

With many states enacting similar plans, and having much success with their programs, Hawaii should join the effort to help its residents and small business owners. Thank you.

TO: Senate [Committee On Ways And Means](#)
Senator Donovan M. Dela Cruz, Chair

DATE: Friday, February 23, 2018
TIME: 10:30 A.M.

Thank you for the opportunity to submit written testimony in SUPPORT of [SB 2333](#), SD 1, Relating to Retirement Savings. My name is Linda Dorset and I am a concerned aging resident living in the Wailuku area.

When individuals save for retirement they are less likely to rely on public assistance programs later in life. These fact sheets show the fiscal savings to state governments that could result from lower-income retirees having saved through Work and Save programs during their working years. According to research by AARP Public Policy Institute [Hawaii Could Save \\$32.7 Million by Helping People Save for Their Own Retirement](#); specifically if between 2018 and 2032 if lower-income retirees save enough to increase their retirement income by \$1,000 more per year.

When individuals save for retirement they are less likely to rely on public assistance programs later in life. State-facilitated retirement savings plans for small-business employees would help people save more for retirement and, in turn, save significant taxpayer dollars for programs like Medicaid, Supplemental Security Income, the Supplemental Nutrition Assistance Program, and housing assistance.

between 2018 and 2032 if lower-income retirees save enough to increase their retirement income by \$1,000 more per year.

Mahalo

SB-2333-SD-1

Submitted on: 2/22/2018 6:49:12 AM

Testimony for WAM on 2/23/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lila Mower	Individual	Support	No

Comments:

James H. Q. Lee
1600 Central Pacific Plaza
220 South King Street
Honolulu, Hawaii 96813

E-mail: jhqllee@dnstlwc.com

Senate Committee on Ways and Means
Thursday, February 22, 2018
10:00 a.m.
Conference Room 211

LATE

To: Senator Donovan Dela Cruz, Chair
Re: S. B. No. 2333, S. D. 1, Relating to Retirement Savings

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran and Members of the Committee,

My name is James H. Q. Lee. I have been involved in numerous businesses in Hawaii over the past forty (40) years and have employed more than 1000 people in our businesses. My current business, Intellectual AG, Inc. currently employs more than 50 people of which 30+ are in the age range of 20 to 35.

I strongly support S.B. No. 2333, S.D. 1 which establishes a retirement savings board to administer the Hawaii retirement savings plan, establishes the Hawaii retirement savings plan administrative fund, requires the board to report to the legislature before establishment of the Hawaii retirement savings plan, and appropriate funds for the purposes of the bill.

In my experiences, young people do not know how to save. Many do not have access to a 401K or other retirement plan at work, do not want to pay the administrative fees associated with such plan, and are not able to save through payroll deduction. This is critical because studies show that people are 15 times more likely to save if they have access to a payroll deduction savings plan.

A 2014 Employee Benefit Research Institute study found that about 62 percent of employees with access to a retirement plan had more than \$25,000 in total savings and investments, and 22 percent had \$100,000 or more. However, only 6 percent of those without access to such a plan had over \$25,000 saved, and only 3 percent had \$100,000 or more.

When people save for retirement they are less likely to rely on public assistance programs later in life. An AARP and University of Maine study estimates Hawaii would save \$32.7 million on public assistance programs through 2032 if lower-income retirees saved enough to increase their retirement income by \$1,000 more per year.

Eight states have already passed legislation that improves workers' access to a retirement program, and 22 more are in progress to help their future retirees. In Oregon, the first state to implement a state retirement program for private-sector employees, 3,350 Oregon workers saved

more than \$600,000 for retirement during the first six months of the pilot phase of the program. Hawaii must join in this national effort to identify solutions to help our future retirees to be retirement ready, and AARP Hawaii stands ready to work with the Legislature to determine the appropriate details for a Hawaii Work and Save program.

Thank you for the opportunity to testify in support of S.B. No. 2333, S. D. 1.

Very truly yours,

By _____
James H. Q. Lee

LATE

SB-2333-SD-1

Submitted on: 2/22/2018 6:56:51 PM

Testimony for WAM on 2/23/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mona Daniels	Individual	Oppose	No

Comments: