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**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

TESTIMONY BY THOMAS WILLIAMS
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TO THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
ON

HOUSE BILL NO. 981, H.D. 1

**March 14, 2019
3:00 P.M.
Conference Room 224**

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Chair Taniguchi, Vice Chair Ihara and Members of the Committee,

The present statutory authority for the Employees' Retirement System of the State of Hawaii (ERS) to recover overpayments would benefit from clarification. H.B. 981, H.D. 1 will amend Sections 88-6 and 88-106, HRS to strengthen the ERS's ability to recover overpayments by declaring overpayments to be debts due and owing to ERS, clarifying that overpayments are legally collectable. This will facilitate rulemaking for maximum recovery, the filing of legal collection actions and liens against real property of overpaid recipients, and the filing of claims against the estate of a deceased recipient.

This bill also provides the Board of Trustees or the Executive Director of the Employees' Retirement System with discretion to waive the recovery of overpayments in cases of bona fide hardship or where the costs of recovery would exceed the amount expected to be recovered.

Primarily, overpayments of ERS benefits are the result of continued payments to deceased retirees and beneficiaries when the ERS is not notified about or was unable to ascertain the death of the recipient. As a defined benefit plan, the ERS provides lifetime benefits to its qualified members and beneficiaries. The ERS usually discovers the death of a recipient by: (1) notification of death by a survivor, (2) notification by financial institution receiving direct deposits, (3) query search of recipients through the Department of Health of the State of Hawaii, and (4) query search of recipients through the data information firm LexisNexis; Pension Benefit



Employees' Retirement System
of the State of Hawaii

Information (PBI); and Gabriel, Roeder Smith (GRS), the ERS's actuarial firm. The deaths that are more difficult for the ERS to establish are for those recipients who live on the mainland or in foreign countries. Of the 47,000 retirees, beneficiaries and vested members of the ERS, 6,500 reside on the mainland U.S. or in foreign countries.

Over the past four years, the ERS has averaged between 100 to 200 overpayment cases per year totaling over \$600,000 per year. Voiding payments through financial institutions, requiring notarized verifications from suspected deceased recipients and requests for repayment have reduced more current overpayments; however, many large overpayments remain unpaid and uncollectable. In July 2020, the ERS will start issuing payments to alternate payees under qualified domestic relations orders, further increasing the risk for overpaid benefits.

The authority and enforcement proposed by H.B. 981, H.D. 1 will strengthen ERS's ability to pursue and recover benefits that should be retained and protected for the rightful members and beneficiaries of the System.

The ERS respectfully submits the attached technical amendments to Section 2 (c) of H.B. 981, H.D. 1 to clarify the regulations by which the ERS may recover benefits.

The Board of Trustees of the Employees' Retirement System supports this legislation.

Thank you for this opportunity to provide testimony on H.B. 981, H.D. 1.

Attachment to ERS Testimony dated March 14, 2019

To: Senate Committee on Labor, Culture and the Arts
From: Employees' Retirement System
Re: Technical Amendments to H.B. 981, H.D. 1

SECTION 2. Section 88-6, Subsection (c):

(c) All overpayments of refunds and retirement benefits, including but not limited to the over issuance of death benefits, beneficiary benefits, payments to alternate payees, and adjustment payments, shall constitute a debt due and owing to the system by the recipient of such overpayments. In addition to the remedies elsewhere prescribed in this chapter for the recovery of benefits, recovery of all overpayments shall be made in accordance with applicable state law and federal regulations. The system shall adopt and enforce rules as may be necessary to effect the maximum recovery of retirement benefit overpayments. System rules for the recovery of overpayments shall prescribe procedures for recourse to the civil courts when required, the filing of liens against the real property of overpaid recipients, and the filing of claims against the estate of a deceased recipient who has received overpayments that have not been recovered. Nothing in this section shall preclude the board of trustees or the executive director of the system from adopting procedures for waiving the recovery of overpayments in cases of bona fide hardship or where the costs of recovery would exceed the amount expected to be recovered.