

DAVID Y. IGE
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DIRECTOR

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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
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
ON
SENATE BILL NO. 2867

February 4, 2020
2:45 p.m.
Room 224

RELATING TO COMPENSATION FOR THE PURPOSES OF THE EMPLOYEES'
RETIREMENT SYSTEM

The Department of Budget and Finance (B&F) supports Senate Bill (S.B.)
No. 2867.

S.B. No. 2867 amends Sections 88-21 and 88-21.5, HRS, to clarify the
definitions for "base pay"; "compensation" as it applies to Employees' Retirement
System (ERS) members hired before July 1, 2012; and "compensation" as it applies to
ERS members hired after June 30, 2012.

B&F supports the clarification of the definitions for compensation related to
retirement benefits. This should help to ensure the employers' reporting of employee
compensation to the ERS is more consistent and provided on a timelier basis.
Furthermore, this should also help to minimize the ERS' unfunded liabilities in the long
term.

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**

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

**TO THE SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
ON**

SENATE BILL NO. 2867

**February 4, 2020
2:45 P.M.
Conference Room 224**

**RELATING TO THE DEFINITION OF COMPENSATION FOR THE PURPOSES OF
THE EMPLOYEES' RETIREMENT SYSTEM**

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

S.B. 2867 amends sections 88-21 and 88-21.5, Hawaii Revised Statutes, to clarify the definition of "compensation" for retirement benefit computation purposes, to help ensure that retirement benefits are computed fairly and equitably for all public employees and to facilitate employer reporting of compensation on a consistent and timelier basis. It will also help ensure ERS compliance with its tax-exempt status requirements. The Board of Trustees of the Employees' Retirement System of the State of Hawaii (ERS) strongly supports this bill.

ERS retirement benefits are based on a formula which includes an employee's (1) membership multiplier, (2) years and months of retirement service credit and (3) average final compensation. This bill clarifies the definition of ERS compensation by amending the definition of "base pay" and "compensation" in chapter 88 with reference to the primary source of all employees' pay information – the employee's personnel action documentation. To determine a common definition of "base pay," the source to which all employers shall refer is the base compensation rate designated by the employee's personnel action report notification or certification. The ERS receives payroll reports from eight separate employers, which include the State of Hawaii and the



Employees' Retirement System
of the State of Hawaii

counties. Currently, the various employers define and report base compensation inconsistently.

The definition provided by S.B. 2867 will also ensure that the ERS meets one of its fundamental tax-exempt qualification requirements – that its benefits be “definitely determinable” under Treas. Reg. § 1.401(a)-1(b)(1). The “definitely determinable” requirement is intended to preclude employer discretion in determining benefits. If employers are using their discretion to determine what should be included in “normal periodic payments of money for service,” and different employers are doing different things with the same elements of compensation, there may be a question as to whether benefits under the ERS are “definitely determinable”. This is a tax-qualification concern. By referring to a “base compensation rate designated by the employee’s personnel action report notification or certification,” S.B. 2867 provides a level of “definiteness” that addresses the tax-qualification concern.

In order to fairly compute retirement benefits for the employees of all employers and to protect its tax-qualified status, with S.B. 2867, the ERS proposes a definition by which all employees' retirement benefits will be computed more uniformly, fairly and equitably.

On behalf of the ERS Board of Trustees, I encourage you to pass this important legislation.

Thank you for this opportunity to testify.

DEPARTMENT OF HUMAN RESOURCES

CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR
NOEL T. ONO
ASSISTANT DIRECTOR

February 4, 2020

The Honorable Brian T. Taniguchi, Chair
The Honorable Les Ihara, Jr., Vice Chair
and Members of the Committee on Labor, Culture and the Arts
The Senate, Room 224
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

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

SUBJECT: Senate Bill No. 2867
Relating to Compensation for the Purposes of the
Employees' Retirement System

Senate Bill 2867 amends the definition of "base pay" for purposes of calculating Employees' Retirement System (ERS) benefits. The City and County of Honolulu, Department of Human Resources (the City) submits the following comments.

The City is continuing to evaluate potential collateral effects of this proposed change. We are concerned, for example, that changing the definition of "base pay" could potentially increase the number of City employees considered to have "spiked" during their "high three years," by virtue of the way the payments are categorized and "spiking" is calculated. To the extent the number of employees considered to have "spiked" could increase because of this definition change, the City would prefer that recurring, predictable payments continue to be reported to the ERS as base pay.

Thank you for the opportunity to comment on SB 2867.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo". The signature is written in a cursive, flowing style.

Carolee C. Kubo
Director



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirtieth Legislature, State of Hawaii
The Senate
Committee on Labor, Culture and the Arts

Testimony by
Hawaii Government Employees Association

February 4, 2020

**S.B. 2867 – RELATING TO COMPENSATION FOR THE
PURPOSES OF THE EMPLOYEES' RETIREMENT SYSTEM**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the intent of one specific section of S.B. 2867 which amends the definition of compensation for retirement benefits and **requests an amendment on page 3, line 20 to maintain inclusion of shortage differentials in the definition of compensation.** Without this important amendment to S.B. 2867, we must oppose passage of the measure.

While we do not raise issue with the general intent of clarifying statutory language regarding base pay compensation, we do raise serious concerns and objections over the deletion of the shortage differential category while calculating compensation for post-June 30, 2012 Tier 2 members of the Employees' Retirement System. First and foremost, the deletion of the shortage differential category is a retroactive action that will adversely impact benefits that employees have already accrued. Additionally, when there is a labor shortage or a challenge to recruit qualified applicants, the employer is authorized to implement a shortage differential to increase the salary of hard-to-fill positions. In some cases, the employer will choose to maintain the shortage differential to retain an employee for the duration of the employee's career in lieu of reclassifying the position to the appropriate market rate salary. In these cases, the employee should not be penalized for the employer's inaction.

Thank you for the opportunity to testify on S.B. 2867.

Respectfully submitted,

Randy Perreira
Executive Director