

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 590

S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committees on Higher Education and Labor, Culture and the Arts, to which was referred S.B. No. 590 entitled:

"A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the eligibility requirement for membership in the University of Hawaii's optional retirement system by eliminating the eligibility for employees in bargaining unit (7) and other employees who are excluded from bargaining unit (7) pursuant to chapter 89, Hawaii Revised Statutes, and making eligible, new employees who are employed by the University's Board of Regents;
- (2) Require the Board of Regents to choose at least three companies to provide investment products under the optional retirement system;
- (3) Require the University to make annual contributions into the optional retirement system for members whose compensation is paid in whole or part from the general fund;
- (4) Allow existing members of the State Employees' Retirement System (ERS) to transfer into the optional



retirement system within ninety days after establishment of the optional retirement system;

- (5) Automatically enroll University employees to the ERS unless they opt to enroll in the optional retirement system within ninety days of employment;
- (4) Prohibit employees who selected the optional retirement system from transferring to the ERS;
- (5) Require the University to make annual contributions for its employees within the optional retirement system; and
- (6) Require the retirement benefits of the optional retirement system to be subject to collective bargaining negotiations.

Your Committees received testimony in opposition to this measure from the State Employees' Retirement System. Your Committees received comments on this measure from the University of Hawai'i System and University of Hawaii Professional Assembly.

Your Committees find that section 88-8, Hawaii Revised Statutes, allows the University to establish its own retirement system for employees in bargaining unit (7), who are faculty appointed by the Board of Regents, and employees excluded from unit (7) under chapter 89, Hawaii Revised Statutes. However, the University has never taken the step to establish its own retirement system, and therefore, membership in the ERS is required of nearly all existing University employees.

Your Committees further find that in Fall 2020, the University convened a "Blue Ribbon Committee" to explore possible means to improve the fiscal balance in the University of Hawaii at Manoa Athletics Program, and that the committee had recently suggested establishment of an alternative retirement system for employees in the program as a means to reduce the fringe benefit expense for employee pensions. Often, employees in the Athletics Program, such as collegiate coaches, assistant coaches, and sport-specific support staff do not maintain employment for more than ten years, which is the minimum vesting period required to earn pension benefits in retirement in the ERS. Therefore, establishment of an alternative retirement program that is



portable and in which the University would contribute less than what is currently being required for the ERS, would benefit both the University and eligible employees in the Athletics Program.

Your Committees also note the concerns raised by the ERS that the provisions in the measure, which allow ERS members to opt out of the ERS and into the optional retirement system, would jeopardize ERS's status as a qualified defined benefit public pension plan under the Internal Revenue Code. The ERS also raises concerns regarding the possibility of ERS's unfunded liability being defrayed by the optional retirement system.

Accordingly, your Committees have amended this measure by:

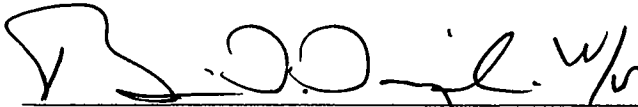
- (1) Retaining the membership eligibility for the University's optional retirement system for employees in bargaining unit (7) and other employees who are excluded from bargaining unit (7) pursuant to chapter 89, Hawaii Revised Statutes;
- (2) Expanding the membership eligibility for the University's optional retirement system to athletic coaches and assistant coaches who are employed by the University of Hawaii on or after July 1, 2021, and are included in bargaining unit (8) pursuant to chapter 89, Hawaii Revised Statutes;
- (3) Allowing the Board of Regents to utilize existing alternative surrogate retirement plans already offered by the State or University as an alternative;
- (4) Allowing the Board of Regents to adopt rules pertaining to eligibility in the optional retirement system;
- (5) Prohibiting members and former members of the ERS from opting into the optional retirement system;
- (6) Allowing eligible new employees to elect between the ERS and optional retirement system and prohibiting them from transferring from one system to the other once election is made;



- (7) Inserting an effective date of July 31, 2050, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Higher Education and Labor, Culture and the Arts that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 590, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 590, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committees on Higher Education  
and Labor, Culture and the  
Arts,

  
BRIAN T. TANIGUCHI, Chair

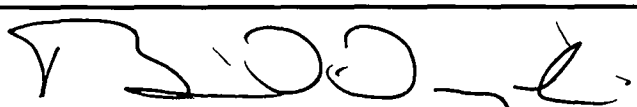
  
DONNA MERCADO KIM, Chair





The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Labor, Culture and the Arts**  
**LCA**

Bill / Resolution No.:* <b>SB 590</b>	Committee Referral: <b>HRE/LCA, WAM/JDC</b>	Date: <b>2/16/2021</b>		
<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
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley	✓			
KEOHOKALOLE, Jarrett				✓
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes