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**STATE OF HAWAII**  
**EMPLOYEES' RETIREMENT SYSTEM**

**TESTIMONY BY KANOE MARGOL**  
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**STATE OF HAWAII**

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

**ON**  
**HOUSE BILL NO. 929, H.D. 1**

**March 19, 2021**  
**Time 3:10 P.M.**  
**Conference Room 225**

**RELATING TO QUALIFIED DOMESTIC RELATIONS ORDERS**

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

H.B. 929, H.D. 1 proposes to amend section 88-93.5, Hawaii Revised Statutes (HRS), to clarify specific benefit- and processing-related details to facilitate its implementation and to provide transparency to Employees' Retirement System ("ERS") members, retirants, beneficiaries, and alternate payees regarding Hawaii Domestic Relations Orders. The ERS Board of Trustees strongly supports this proposal.

The ERS began processing Hawaii Domestic Relations Orders to allow the ERS to make direct payments to alternate payees on July 1, 2020. In order to facilitate its current implementation and to provide clarity and transparency on ERS benefits payable to parties involved, this bill specifies the benefits payable and clarifies the process of the qualification, approval, and application of Hawaii Domestic Relations Orders.

This bill clarifies the following: (1) that the release of a member's ERS information to an alternate payee may be initiated by a complaint for divorce or by a divorce decree, (2) that the ERS will notify the parties of the advisory nature of the review determination on proposed domestic relations orders, (3) that a Hawaii Domestic Relations Order applied to a termination refund will not apply to benefits that result from any future return to work, (4) that, should a retirant be deceased within a year of retirement, any payments made to an alternate payee will be considered payments to the retirant, should the



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beneficiary select an alternative benefit option, and (5) that the priority of multiple orders will be based upon the date of the receipt of the domestic relations order.

Your committee heard H.B. 929's companion bill, S.B. 1083, on February 3, 2021. Your committee amended S.B. 1083 by substituting the contents of a similar 2020 bill, S.B. 2868, S.D. 1. See S.B. 1083 S.D. 1 and SSCR 479.

The ERS appreciates that S.B. 2868 was approved by your committee and passed by the Senate last year.

Although S.B. 1083, S.D. 1 is essentially the same as the bill that was introduced in 2020 (S.B. 2868), the ERS prefers the revisions and additional operational definitions provided by H.B. 929, H.D. 1. The refinements and additions in H.B. 929, H.D. 1 are based on the ERS's recent experience in actually processing Hawaii Domestic Relations Orders since July 1, 2020.

H.B. 929, H.D. 1 contains the following revisions and additions that are not present in S.B. 1083, S.D. 1:

1. Subsection (a), p. 1: Adds definitions for the "benefit the member or former member is expected to receive" and the "benefit the retirant is receiving" to clarify on what basis the alternate payee's benefit would be calculated.
2. Subsection (g), p. 8: Uses the terms "domestic relations order" and "proposed domestic relations order" instead of "order" and "proposed order." This language is more precise.
3. Subsection (j), p. 12: Changes "resumes membership" to "becomes a member... again." This language is more consistent with that of the other HRS Chapter 88 sections relating to membership.
4. Subsections (m) and (n), pp. 13 - 17: Adds the language "remaining benefit" and "after payments required pursuant to Hawaii domestic relations orders with priority as set forth in subsection (u) and (v)," to provide a priority on the receipt date when multiple orders for the same member, former member or retirant are received.
5. Subsection (v), p. 22: Adds that the "qualification of a domestic relations order as a Hawaii domestic relations order supersedes and terminates the qualification of any prior Hawaii domestic relations order between the same alternate payee and member, former member with vested benefit status, or retirant," allowing for succeeding, corrective orders to supersede previous orders.

Thus, the ERS prefers the revisions and additions in H.B. 929, H.D. 1.

The ERS Board of Trustees strongly supports H.B. 929, H.D. 1 and encourages its passage.

Thank you for this opportunity to testify.