

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 1082
S.D. 1

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

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 1082 entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM, "

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the definition of "compensation" for the purpose of calculating retirement benefits for public employees; and
- (2) Exclude recurring differentials from the definition of "base pay" and shortage differentials from the definition of "compensation", respectively.

Your Committee received testimony in support of this measure from the Employees' Retirement System (ERS). Your Committee received testimony in opposition to this measure from the Hawaii Government Employees Association, AFSCME Local 152, AFL CIO; Hawaii State Teachers Association; and one individual. Your Committee received comments on this measure from the City and County of Honolulu Department of Budget and Fiscal Services, City and County of Honolulu Department of Human Resources, and City and County of Honolulu Department of Information Technology.



Your Committee finds that ERS retirement benefits are calculated based on a formula which includes the employee's average final compensation; however, the eight separate employers who use the ERS are currently reporting their employees' payroll information to the system using inconsistent discretionary definitions of "base compensation". This inconsistency, in addition to creating inequality among public employees, also subjects the ERS to the risk of losing its tax-exempt status as a qualified pension plan. Therefore, your Committee finds that this measure is necessary to ensure that retirement benefits are computed fairly and equitably for all public employees, facilitate employer reporting of compensation on a consistent and timely basis, and eliminate risk to ERS's tax-exempt status.

Your Committee also finds that some employers who fill hard-to-fill positions by increasing the salary using shortage differential choose to continue paying the differential for the duration of the employee's career instead of reclassifying the position's salary to an appropriate market rate. Your Committee finds that excluding recurring differentials, including shortage differentials used in such manner, from the definitions of "base pay" and "compensation" will have an unintended detrimental effect on many employees.

Your Committee notes that S.B. No. 2867, S.D. 2 (Regular Session of 2020), which was previously passed by the Senate, is a substantially similar measure that also clarifies the definition of compensation for the purposes of calculating retirement benefits. According to the ERS, there is no substantive difference between this measure and S.B. No. 2867, S.D. 2.

Accordingly, your Committee has amended this measure by:

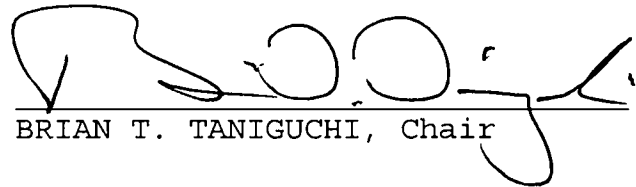
- (1) Deleting its contents and inserting the contents of S.B. No. 2867, S.D. 2, a substantially similar measure, which clarifies the definition of compensation for the purposes of calculating retirement benefits;
- (2) Allowing "recurring differentials" to remain as part of "base pay" in section 88-21, Hawaii Revised Statutes;



- (3) Allowing "shortage differentials" to remain as part of "compensation" in section 88-21.5(b), Hawaii Revised Statutes; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1082, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 1082, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,

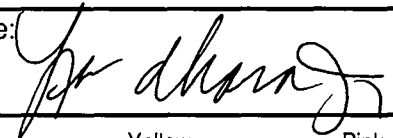


BRIAN T. TANIGUCHI, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

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

Bill / Resolution No.:* SB 1082	Committee Referral: LCA, JDC	Date: 2/3/21		
<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				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes