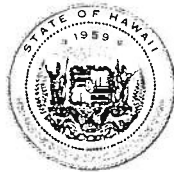


DAVID Y. IGE
GOVERNOR



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 HOUSE COMMITTEE ON LABOR AND TOURISM
ON

HOUSE BILL NO. 1292, H.D. 1

February 16, 2021
9:00 A.M.
Conference Room 312

RELATING TO HAWAII NATIONAL GUARD RETIREMENT BENEFITS.

Chair Onishi, Vice Chair Sayama, and Members of the Committee,

H.B. 1292, H.D. 1, Section 2, creates a new section in Chapter 88 for Employees' Retirement System (ERS) service credit for unspecified military personnel for their time serving on national guard active duty and does not provide funding for these non-ERS members.

The ERS Board of Trustees strongly opposes Section 2 of this bill.

By including non-state and non-county personnel in the ERS, H.B. 1292, H.D. 1, Section 2's implementation would represent a benefit enhancement precluded by Act 29, SLH 2011 and would extend benefits to otherwise ineligible individuals, as these individuals are not employees of the State or the counties. In addition, their inclusion may adversely impact the unfunded liability of the system.

There is already an existing section under Chapter 88 to cover qualified state and county employees with ERS service credit when called up to State active duty service. Section 88-132 "Service credit; payment of contributions," allows for employer-sponsored coverage for ERS retirement service credit. We have attached clarifying revisions to Section 88-132, HRS (see the attached) to confirm this statutory coverage.



Employees' Retirement System
of the State of Hawaii

In addition, as National Guard employment is on-going, we have deleted the "honorable discharge" requirement from this subsection.

When National Guard service personnel who are members of the ERS are called up for, and return from, active duty, the State or county employer certifies the period of leave without pay. Both employer and employee contributions are continued during such period so as to avoid interruption in service accrual. This provision, under section 88-132, applies to ERS members only, and does not apply to ineligible non-State or non-county employees.

In contrast to the draft revision for Sec. 88-132, H.B. 1292, H.D. 1 would benefit an activated national guard population of personnel who are not employees of the State or county and are ineligible to become members of the ERS. The inclusion of non-State or county employees into the membership of the ERS would also violate the provisions of section 88-99, HRS, which prohibits ERS benefit enhancements until the system is 100% fully funded.

We ask that you replace Section 2 of H.B. 1292, H.D. 1 with our attached revised language for Section 88-132, HRS.

Thank you for this opportunity to testify on H.B. 1292, H.D.1.

Attachment

ERS DRAFT REVISION TO SECTION 88-132 ("SERVICE MEMBER'S ACT")
For H.B. 1292, H.D. 1

§88-132 Service credit; payment of contributions. (a) Every active member of the system who leaves active service of the State or any county for the purpose of entering [the] United States military service [of the United States] in time of war or declared national or state emergency, or is called involuntarily to state active duty after June 24, 1950, shall, so long as the member remains in military service, be allowed service credit in the system to the same extent as if the member were continuously in the active service of the State or county, as the case may be, in the position which the member held immediately prior to the member's entry into military service; provided that in no event shall the allowance of service credit exceed a period of four years.

(b) The State or county, as the case may be, in whose service the member was employed immediately prior to the member's induction into military service shall pay all contributions to the pension accumulation fund and to the annuity savings fund, and any other payment to the system, which would otherwise be payable to the system by the State, the county, or the member if the member had remained continuously in the active service of the State or county, as the case may be, during the period of the member's military service; provided that:

(1) The cumulative length of time for which a member shall be entitled to payment of the contributions shall not exceed four years;

(2) The member returns to state or county government service within ninety days of release from active duty or dies in the performance of the member's military service; and

(3) The member's release from active duty [was under honorable conditions] was officially documented.

(c) The State or county, as the case may be, shall pay all contributions required to be made under subsection (b) within sixty days after:

(1) The member returns to state or county government service; or

(2) The State or county, as the case may be, receives notice of the member's death in the performance of the member's military duty.

(d) If the State or county, as the case may be, fails to pay the contributions within the time specified in subsection (c), the State or county, as the case may be, shall also pay to the system regular interest from the date the member returned to state or county government service or the date of the member's death in the performance of the member's military duty until payment is made. Regular interest paid on the portion of the contributions that would have been payable by the member shall be included in the member's accumulated contributions.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

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)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LABOR & TOURISM
ON
HOUSE BILL NO. 1292, H.D. 1

February 16, 2021
9:00 a.m.
Room 312

RELATING TO THE HAWAII NATIONAL GUARD RETIREMENT BENEFITS

The Department of Budget and Finance (B&F) opposes House Bill (H.B.) No. 1292, H.D. 1.

H.B. No. 1292, H.D. 1: adds a new section to Part II, Subpart E of Chapter 88, HRS, to provide service credit under the Employees' Retirement System (ERS) to military personnel ordered to active duty in the State; amends the definition of "employee" in Section 88F-1, HRS, to include any member of the Hawai'i National Guard (HNG) ordered into active service by the Governor; requires the Department of Human Resources Development (DHRD) to conduct a study on retirement benefits for HNG members and to submit the report to the Legislature prior to the Legislative Session of 2022; and appropriates an undetermined amount of general funds in FY 22 to DHRD to complete the study.

While B&F appreciates the intent to look into retirement benefits that could be provided to HNG members ordered into active service by the Governor, it is opposed to providing ERS service credit to individuals who are not employees of a participating public employer since it will negatively affect the ERS' unfunded actuarial accrued liability.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



RYKER WADA
DIRECTOR

ANDREW T. GARRETT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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HONOLULU, HAWAII 96813-2437

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND TOURISM

For Hearing on February 16, 2021 at 9:00 a.m.
Room 312 and via video teleconference

BY

RYKER WADA
DIRECTOR

House Bill 1292, H.D. 1
Relating to Hawaii National Guard Retirement Benefits

Dear Chair Onishi, Vice-Chair Sayama and Members of the Committee:

Thank you for the opportunity to provide these **COMMENTS** on H.B. 1292, H.D. 1, which does the following:

1. Provides for service credit for time in service when military personnel are called to active duty in the State by amending chapter 88, Hawaii Revised Statute to add a new section to part II of subpart E;
2. Includes members of the Hawaii National Guard ordered into active service by the governor to be eligible for the State's deferred compensation plan for part-time, temporary, seasonal/casual employees by amending the definition of "employee" in section 88-F, Hawaii Revised Statutes (HRS); and
3. Requires the Department of Human Resources Development (DHRD) to conduct a study and recommend state retirement benefits for Hawaii National Guard members who are activated under state active duty orders and Hawaii National Guard members who are retired, and submit a report to the Legislature detailing the findings and recommendations of the study, including any proposed legislation, no later than twenty days prior to the convening of the regular session of 2022.

We defer to the Employees' Retirement System on the issues pertaining to service credits, as that issue is outside of DHRD's purview. We are limiting our comments to sections 3

and 4, which would amend the definition of “employee” in Chapter 88F, HRS, to include any member of the Hawaii National Guard to be eligible to participate in the deferred compensation plan for part-time, temporary, seasonal/casual employees (PTS Deferred Compensation Plan or Plan) during the periods that the guard member is ordered into active service by the governor and require DHRD to conduct a study on retirement benefits for Hawaii National Guard members who are activated under state active duty orders and Hawaii National Guard members who are retired, respectively.

The PTS Deferred Compensation Plan is an eligible deferred compensation plan under section 457 and 3121 of the Internal Revenue Code (Code) and is considered a retirement savings plan rather than a traditional retirement pension plan where the member would receive a monthly pension based on their years of service and a retirement benefit formula. Participation in the Plan is mandatory and the amount to be deferred by participants to the Plan is in lieu of social security contributions. Under the contract with the Plan’s third-party administrator, contributions are invested in an insurance annuity product that allows a guarantee full return of principal and interest upon the participant’s separation from State service and certification that there are no plans to return to State employment. Members accruing benefits for the intermittent active duty periods may be minimal and their account balances could be held indefinitely until such time the guard member completely separates from service.

In addition, National Guard members called to active duty are not paid through the State payroll and personnel information on these members are currently not captured within the department’s human resources management system. To include these members under the Plan would significantly increase the workload for the department and line department(s) (i.e., Department of Defense and the Hawaii National Guard) to track and update information on the intermittent active duty periods of these members, educating the members on the Plan requirements, and ensuring that terminations are timely reported.

Regarding the study outlined in section 4, the department does not have the resources nor the expertise in the myriad of retirement benefit plans that are available to make a recommendation. Consequently, the department would have to contract the services of such experts and do so by drafting a Request for Proposal for this study and executing a contract that is subject to the State Procurement Code. In all likelihood, we would not be able to complete the contracting process, much less the study itself, within the timeframe provided in this

measure. At this time, we do not have a suggestion as to the appropriation necessary to contract the services of an expert as referenced in section 5.

As drafted, once the study is completed and recommendations are made, it is unclear as to who will be responsible to implement and administer the recommended retirement program and whether the program is in line with what the National Guard is seeking for its members. With the limited staff resources dedicated to overseeing the deferred compensation retirement savings plans, it would place undue hardship on staff to undertake another retirement benefit plan specific to this group. In addition, if the recommendation is to provide a defined benefit plan, which is a traditional retirement plan similar to the benefits ERS provides to its members, the department does not have the capability to administer such program.

In closing, enrolling the National Guard members into the PTS Plan may not be an effective method to create beneficial retirement savings for these members as the amount of contributions into the Plan accrued during these intermittent, specific periods of time could be minimal for the calendar year as well as over a few years. The amount available at the time of withdrawal is not based on a retirement benefit formula as with a traditional pension plan. In addition, they will not be earning social security credits for time served while covered under the PTS Plan. Furthermore, if the National Guard is seeking a traditional retirement pension plan where the guard members will receive a monthly pension, then DHRD may not be the appropriate department to conduct the study and implement the benefit, since the department does not have the expertise nor the capability to administer a defined benefit plan. They may want to consider offering a separate retirement benefit administered by the State National Guard rather than through the HR administration office, which is what the National Guard offices in a few other states are doing.

Thank you for the opportunity to provide these comments on H.B. 1292, H.D. 1.

DAVID Y. IGE
GOVERNOR



KENNETH S. HARA
MAJOR GENERAL
ADJUTANT GENERAL

STEPHEN F. LOGAN
COLONEL
DEPUTY ADJUTANT GENERAL

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DEPARTMENT OF DEFENSE
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TESTIMONY ON HOUSE BILL 1292 HD1,
RELATING TO THE HAWAII NATIONAL GUARD RETIREMENT BENEFITS

PRESENTATION TO
THE COMMITTEE ON LABOR & TOURISM

By

MAJOR GENERAL KENNETH S. HARA
ADJUTANT GENERAL
DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY
AND HOMELAND SECURITY ADVISOR

FEBRUARY 16, 2021

Chair Onishi, Vice Chair Sayama, and Members of the Committee on Corrections, Military, and Veterans.

I am Major General Kenneth Hara, Adjutant General, Director of the Hawaii Emergency Management Agency and Homeland Security Advisor.

The Department of Defense (DOD) provides written COMMENTS on HB 1292 HD1 calling for a study RELATING TO HAWAII NATIONAL GUARD RETIREMENT BENEFITS.

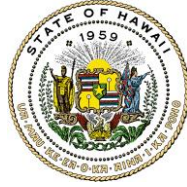
HB 1292 HD1 asks the Department of Human Resources Development (DHRD) to conduct a study to determine the need for, and if warranted, recommend state retirement benefits for Hawaii National Guard (HING) members who are activated under State Active Duty orders and Hawaii National Guard members who are retired. It also defines a HING Service Member as an "Employee".

HING supports the study and believes that a study will fairly address whether potential retirement benefits under the State of Hawaii are economically feasible for the State and whether the time served on State Active Duty will provide reasonable benefits.

However, HING requests the removal of the section in HB 1292 HD1 that defines a HING Service Member on State Active Duty as an "Employee" as proposed on page 4, lines 9 through 14, of HB 1292 HD1 until a study determines that such a designation is economically feasible and reasonable for the State of Hawaii, and to the HING Service Member while on State Active Duty.

Passing the HB 1292 HD1 with this language remaining within it may create the requirement for processing approximately 5000 HING Service Members as part-time, temporary, seasonal or casual employees within the State of Hawaii payroll system prior to the study determining

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whether this is economically feasible or not for the State of Hawaii and for the HING Service Member.

Currently a HING Service Member on State Active Duty is not considered an "Employee". HING Service Members pay on State Active Duty is not processed as State Payroll. As such HING Service Members have Social Security taxes taken out of their checks for their service on State Active Duty and are currently receiving Social Security tax credit while serving on State Active Duty. Defining HING Service Members as employees will remove the ability to pay Social Security taxes for Social Security tax credit and potential future Social Security retirement benefits.

HING defers to DHRD to address the impacts to DHRD to enter HING Service Members into the system. HING also defers to DHRD to address the impacts to Social Security tax credit; Hawaii State Employee Retirement System; and the Hawaii State Deferred Compensation program.

HING believes a comprehensive study should take place concerning potential retirement benefits for HING Service Members before making a commitment of defining a HING Service Member on State Active Duty as an "Employee".

Thank you for the opportunity to provide COMMENTS on HB 1292.

BG Moses Kaiwi Jr.: moses.kaiwi@hawaii.gov; 808-844-6005 (On Behalf of MG Hara)
MG Kenneth S. Hara: kenneth.s.hara@hawaii.gov; 808-672-1211

TO THE HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021
COMMITTEE ON LABOR & TOURISM
Rep. Richard H.K. Onishi, Chair
Rep. Jackson D. Sayama, Vice Chair
NOTICE OF HEARING
DATE: Tuesday, February 16, 2021
TIME: 9:00 a.m.
PLACE: VIA VIDEOCONFERENCE
Conference Room 312
State Capitol
415 South Beretania Street

POSITION: **STRONG SUPPORT HB 1292 HD1**

HB 1292 the bill that signifies our willingness to honor and recognize the sacrifices of our Hawaii residents that took up the mantle protecting these islands along with missions within the United States and abroad.

There are many instances where the Hawaii national guard was activated multiple times to include but not limited to: Kauai flooding in 2018 and the lava emergency proclamation in 2018 on Hawaii Island. The intent of this bill requires the board of trustees of the employees' retirement system to conduct a study to determine and provide retirement benefits for Hawaii national guard members who are activated under state active-duty orders (U.S. Code Title 32).and Hawaii national guard members who are retired and submit findings and recommendations to the legislature prior to the regular session of 2022.

States including Alabama, California, Michigan, and Texas have expanded retirement benefits for national guard members who have been activated by their respective state governor through state active-duty orders. Though we are in dire straits financially I feel that a study conducted will allow for a full account of what we owe those who serve.

Therefore, I recommend that this bill be passed out of this committee, all amendments to this bill should be with the intent of reducing possible ambiguous language or enhancing the intent of this bill. Thank you for taking the time in reading my testimony.

Mahalo,

Ken Farm