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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
Ka 'Oihana Mālama Mo'ohelu a Kālā
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ADMINISTRATIVE AND RESEARCH OFFICE
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FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS
ON
HOUSE BILL NO. 1644

February 1, 2024
9:00 a.m.
Room 309 and Videoconference

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

The Department of Budget and Finance (B&F) opposes this bill.

House Bill No. 1644 amends the definition of "compensation" as related to members of the Employees' Retirement System hired after June 30, 2012, to include overtime related to a state of emergency and to clarify that this overtime compensation shall be included in pension calculations for all current and prospective employees as of July 1, 2024.

B&F opposes the proposed amendments to "compensation" since they would hamper the State's and the other public employers' efforts to address the unfunded actuarial accrued liabilities (UAAL) for pension accumulation. While the eligible overtime is limited to work related to declared states of emergency, it is not uncommon for there to be prolonged emergencies (e.g., Emergency Proclamations Relating to COVID-19, Axis Deer, Homelessness, Affordable Housing, Uncle Billy's Hilo Bay Hotel, Wildfires, and School Bus Services) and the corresponding overtime needs are unpredictable. Furthermore, any significant amount of newly eligible overtime would increase fringe benefits costs for public employers, increase the UAAL, and delay the timeline to fully fund the UAAL, all of which would have a negative impact the State's credit ratings.

Thank you for your consideration of our comments.



JOSH GREEN, M.D.
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 GOVERNMENT OPERATIONS
ON
HOUSE BILL NO. 1644
February 1, 2024
9:00 A.M.
Conference Room 309 and VIA Videoconference**

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM (ERS).

Chair Matayoshi, Vice Chair Garrett, and Members of the Committee,

The ERS opposes this bill as it would violate HRS § 88-99 prohibition against retirement benefit enhancements until the ERS is 100% fully funded.

H.B. 1644 proposes that overtime pay be included as eligible compensation in the calculation of benefits for members of the Employees' Retirement System (ERS) hired on or after July 1, 2012, when an employee has been directed by their supervisor or an appropriate authority to work more than their normal hours of service to perform specific duties and tasks related to an active emergency proclamation. The bill also proposes that overtime shall be included in the pension calculation for all active and future employees starting July 1, 2024.

While the ERS Board of Trustees has not had the opportunity to review the bill, the ERS staff believes it would oppose the bill.

The bill seeks to amend the definition of "compensation" in § 88-21.5(b), Hawaii Revised Statutes (HRS) that would be used for the calculation of benefits for employees



Employees' Retirement System
of the State of Hawaii

who were hired after June 30, 2012, also known as Tier 2 members. The exclusion of overtime for the new Tier 2 members was part of the reforms enacted by the legislature to address the ERS's Unfunded Actuarial Accrued Liability (UAAL), which reached a peak of \$14.61 billion in 2020. As a result of the reforms, ERS' UAAL has decreased to \$13.71 billion as of Fiscal Year (FY) 2023 and is on track to be fully funded in 23 years, according to ERS's actuary, Gabriel, Roeder, Smith & Company (GRS). ERS's funded ratio has improved in the past seven valuations from 54.7% in FY 2016 to 62.2% in FY 2023.

While difficult to estimate, the inclusion of overtime during emergency circumstances or otherwise in the calculation of pension benefits for Tier 2 members can lead to significant actuarial losses if not pre-funded and would likely result in the need for an increase in employee and/or employer contributions.

The ERS retirement plan is primarily intended to replace in retirement a portion of the regular or ordinary income that members have come to rely upon while working. Overtime and bonuses, for example, are not generally considered ordinary compensation that is intended to be replaced in retirement. The proposed inclusion of overtime will increase the cost of benefits and may require a commensurate increase in contributions to maintain the ERS's current funding trajectory.

The bill also would require that overtime be included as compensation for ERS purposes for employees, "if directed by their supervisors or an appropriate authority to work more than their normal hours of service to perform specific duties and tasks related to an active emergency proclamation issued pursuant to chapter 127A."

The impact on the ERS would be difficult to determine because in the event of an active emergency proclamation, all state workers could be tasked with duties related to an emergency. The period of the proclamation would also be indeterminable, depending on the length of the event and level of response.

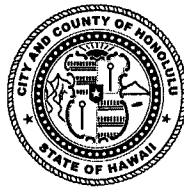
Significantly, the bill also does not address payment by employers of costs associated with significant non-base pay increases, also known as "pension spiking." Currently HRS § 88-100, which was enacted in 2012 to cover costs associated with "spiking," covers only members hired before July 1, 2012. If this bill is enacted, the ERS would recommend that § 88-100, HRS be amended to apply to employees hired after on or after July 1, 2012, as well.

Thank you for the opportunity to provide testimony on H.B. 1644.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
KA 'OIHANA MĀLAMA MO'OHĒLU A KĀLĀ
CITY AND COUNTY OF HONOLULU

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CARRIE CASTLE
DEPUTY DIRECTOR
HOPE PO'O

January 30, 2024

The Honorable Scot Z. Matayoshi, Chair
The Honorable Andrew Takuya Garrett, Vice-Chair
and Members of the Committee on Labor and
Government Operations
State Capitol, Room 309
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Matayoshi, Vice-Chair Garrett and Committee Members:

SUBJECT: Testimony Not in Support of HB Bill 1644
Hearing: Thursday, February 1, 2024, 9:00 a.m., Room 309

The City and County of Honolulu (City) has serious concerns regarding House Bill 1644 (H.B. 1644), due to the potential impacts on the City's retirement funding obligations. The bill includes a provision effective July 1, 2024, that amends HRS Section 88-21.5(b) to include overtime pay in the definition of "compensation" for employees who are hired after June 30, 2012.

This proposed change goes against Act 152 (2012), which changed the definition of compensation to remove non-base pay for employees hired after June 30, 2012. The purpose of Act 152 (2012) was to set fiscal policy so that the State and Counties could fully fund ERS benefits. The change in HB 1644 would increase accrued liabilities of the Employees Retirement System, and likely result in higher employer contributions in order to meet the goal of fully funding ERS benefits.

In addition, the proposed change in H.B. 1644 would increase the City's costs of spiking, the payment by employers of costs associated with significant non-base pay increases. This requirement has resulted in large annual spiking bills for the City, increasing from about \$765,000 in FY 2013 to about \$46 million in FY 2022. The changes from Act 152 (2012) to remove non-base pay from compensation will eventually reduce the spiking payments, when employees hired after 2012 retire. However, the proposed change in H.B. 1644 to include overtime pay in the definition of compensation will work against the positive effects of Act 152 on spiking.

The Honorable Scot Z. Matayoshi, Chair
The Honorable Andrew Takuya Garrett, Vice-Chair
and Members of the Committee on Labor and
Government Operations
January 30, 2024
Page 2

Thank you for the opportunity to testify on House Bill 1644.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew T. Kawano". The signature is fluid and cursive, with the first name "Andrew" and last name "Kawano" clearly visible.

Andrew T. Kawano
Director

Feb. 1, 2024, 9 a.m.
Hawaii State Capitol
Conference Room 309 and Videoconference

To: House Committee on Labor and Government Relations
Rep. Scot Z. Matayoshi, Chair
Rep. Andrew Takuya Garrett, Vice-Chair

From: Ted Kefalas, Director of Strategic Campaigns
Grassroot Institute of Hawaii

RE: TESTIMONY OPPOSING HB1644 — RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Aloha Chair and Committee Members,

The Grassroot Institute of Hawaii would like to offer its comments opposing [HB1644](#), which would reinstate the practice of including overtime in the definition of "compensation" for employees covered by the Hawaii Employees' Retirement System.

We are deeply concerned that adding overtime pay to pension calculations will increase the pension system's unfunded liabilities, which in fiscal 2022 stood at \$13.5 billion.¹

In particular, this bill would allow the return of "pension spiking" — an action that the Legislature stopped for new ERS members back in 2012.

"Pension spiking" occurred when public employees worked overtime or received substantial bonuses. These payments — in addition to their base salaries — were used to calculate an employee's retirement benefits.

By racking up substantial hours of overtime for just a few years during their careers, public employees could receive inflated pensions.

¹ ["Annual Comprehensive Financial Report for Fiscal Year Ended June 30, 2022,"](#) Hawaii Employees' Retirement System, Oct. 19, 2023, p. 8.

The Legislature recognized that this practice was sapping money from the ERS and contributing to its large unfunded liabilities, which at the time totaled roughly \$8 billion.

In the 2012 regular session, the Legislature passed and Gov. Neil Ambercrombie signed SB1269, which prohibited pension spiking for public employees hired after June 30, 2012.²

At the time, then-ERS Administrator Wes Machida said that getting the bill enacted “was really a good accomplishment for us from a liability standpoint. It helps us curtail the liability going forward.”³

The prohibition did, in fact, save the state and county governments several million dollars. In 2010, for example, pension spiking had added \$12.3 million in unfunded liabilities.⁴ The prohibition was not a silver bullet to bring down the system’s unfunded liabilities, but it helped.

The ERS cannot afford to allow the return of pension spiking. In 2022, Hawaii’s public retirement system was only 61.2% funded. Only five states had a lower percentage of their pension systems funded.⁵

Under its current assumptions, ERS management predicts it will take about 24 years to zero out its unfunded liabilities⁶ — assuming economic downturns, global instability or other such factors do not significantly interfere.

Allowing pension spiking would make it that much harder to pay off the unfunded liabilities.

The Pew Charitable Trusts reports that high unfunded liabilities sap government revenues and can affect credit ratings. In July 2022, two Pew researchers wrote:

“Although states have decades to pay off these sums, such spending commitments can have budget consequences both now and later. If the amount states must spend each year to pay down these obligations gets too high, less money may be available to fund other priorities, such as healthcare or education, or to cover unexpected needs. As part of a state’s full financial picture, these liabilities also can affect credit ratings and borrowing costs.”⁷

² Nanea Kalani, “[Pension Spiking Measures Await Gov’s OK](#),” Honolulu Civil Beat, May 15, 2012; “[SB1269 SD2 HD2 CD1](#),” Hawaii State Legislature, 2012 Archives.

³ [Ibid.](#)

⁴ [Ibid.](#)

⁵ “[Annual Comprehensive Financial Report for Fiscal Year Ended June 30, 2022](#),” Hawaii Employees’ Retirement System, pp. 35 and 180. Note that this figure is on an actuarial basis. On a market basis, the funded ratio is 62.8%.

⁶ [Ibid.](#), p. 39.

⁷ Joanna Biernacka-Lievstro and Joe Fleming, “[States’ Unfunded Pension Liabilities Persist as Major Long-Term Challenge](#),” Pew Charitable Trusts, July 7, 2022.

It is unclear whether this bill is intended to aid in attracting or retaining government workers. But whatever its goal might be, its approach is fiscally unsound.

Hawaii cannot afford to reinstate pension spiking and take a backwards step in its efforts to reduce the state's unfunded liabilities.

Thank you for the opportunity to submit our comments.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

**HOUSE OF REPRESENTATIVES
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024**

COMMITTEE ON LABOR & GOVERNMENT OPERATIONS

Rep. Scot Z. Matayoshi, Chair
Rep. Andrew Takuya Garrett, Vice Chair

Thursday, February 1, 2024, 9:00 AM
Conference Room 309 & Videoconference

Re: Testimony on HB1644 – RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Chair Matayoshi, Vice Chair Garrett, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

UPW supports HB1644, which provides that for members of the Employees' Retirement System (“ERS”) hired after July 1, 2012, overtime (“OT”) would be included in the definition of compensation when an employee has been directed by their supervisor or an appropriate authority to work more than their normal hours of service to perform specific duties and tasks related to an active emergency proclamation.

As currently written, Section 88-21.5, Subsection (b), Hawaii Revised Statutes, OT is excluded from the definition of “compensation”. This bill would restore the inclusion of OT in pension calculations for all qualifying active and future employees at the beginning of the next fiscal year. We believe that for the large number of our members who are assigned to mandatory OT shifts, whether they are performing specific duties related to an active emergency proclamation or not, OT should be considered in pension calculations.

Mahalo for the opportunity to testify in support of this measure.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kalani Werner', written over a light blue horizontal line.

Kalani Werner
State Director

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirty-Second Legislature, State of Hawaii
The House of Representatives
Committee on Labor and Government Operations

Testimony by
Hawaii Government Employees Association

February 1, 2024

H.B. 1644 — RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1644, which includes overtime in the definition of compensation when an employee has been directed by their supervisor or an appropriate authority to work more than their normal hours of service to perform specific duties and tasks related to an active emergency proclamation.

Over the past few years, employees have been directed to support the public during a time of emergency – weather it was through processing of unemployment claims during the COVID-19 pandemic or emergency dispatchers picking up the phone during the Maui wildfires, our members are/were there to assist the public. Unfortunately, for newer employees who were hired after July 1, 2012, overtime will not be included in their pension calculation. Many employee groups must work over 40 hours a week, they sacrifice time away from their family and personal lives to address emergency issues because the public depends on it. Therefore, we feel that it is appropriate and necessary to restore overtime in an employee's pension calculation when they have been directed by their supervisor or an appropriate authority to perform specific duties and tasks related to an active emergency proclamation. We are confident that this will ensure fairness for an employee knowing that these service hours will be calculated into their pension.

Thank you for the opportunity to provide testimony in strong support of H.B. 1644.

Respectfully submitted,


Randy Perreira
Executive Director