

JOSH GREEN, M.D.
GOVERNOR



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STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE SENATE COMMITTEES ON WAYS & MEANS AND JUDICIARY
ON
SENATE BILL NO. 578, S.D. 2
February 22, 2024
9:46 A.M.
Conference Room 211 and VIA Videoconference

RELATING TO GOVERNMENT.

Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Committees,

S.B. 578, S.D. 2, proposes to amend Section 88-9 of the Hawaii Revised Statutes (HRS) to establish an additional category of retirants who may be employed without reenrollment in the Employees' Retirement System (ERS) and without the loss or interruption of benefits. The Employees' Retirement System (ERS) Board of Trustees (BOT) has not had a chance to review the bill, but the ERS staff is providing the following comments.

The ERS believes that the addition of investigators of the Department of the Attorney General as a category may not be needed. Section 88-9(d)(6) provides for the additional category as, "an investigator identified by the department of the attorney general a labor shortage or difficult-to-fill position". Investigators of the attorney general are covered by Section 88-9(d)(4), which allows the retirant to be employed under a labor shortage or difficult-to-fill position as identified by the appropriate jurisdiction. We believe that the authority to designate positions in the Department of the Attorney General as either labor shortage or difficult-to-fill are under the jurisdiction of the Department of Human Resources Development (DHRD). The ERS will defer to DHRD and the Department of the Attorney General on the appropriateness of delegating the



Employees' Retirement System
of the State of Hawaii

jurisdictional authority in administering this requirement in accordance with all laws and established procedures.

The ERS is also concerned that other departments and agencies will use the statute to include individual position exemptions. The exemptions would require each department or agency in the jurisdiction to establish its own criteria for each position that is established as a labor shortage or “difficult-to-fill” and would lead to inconsistent criteria among positions and departments.

The amendment includes necessary requirements for the hiring of these retirants. The ERS believes those requirements, codified for labor shortage or difficult-to-fill positions by Act 179, Session Laws of Hawaii 2010, are necessary for the ERS to protect its tax-exempt status by providing remedies for the ERS against the employer and retirant if a retirant is employed in violation of HRS Chapter 88 and the Internal Revenue Code of 1986. Section 88-9(f) also has been amended in S.B. 578 S.D. 2 to require the department to submit an annual report to the legislature detailing the employment of retirants.

Thank you for the opportunity to provide testimony on S.B. 578, S.D. 2.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 578, S.D. 2, RELATING TO GOVERNMENT.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS AND ON JUDICIARY

DATE: Thursday, February 22, 2024 **TIME:** 9:46 a.m.

LOCATION: State Capitol, Room 211 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Robyn B. Chun,
Deputy Attorney General, at (808) 586-0618)

Chairs Dela Cruz and Rhoads and Members of the Committees:

The Department of the Attorney General (Department) supports this bill.

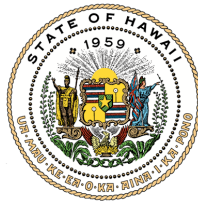
This bill amends section 88-9, Hawaii Revised Statutes, to provide that a retirant may be employed without reenrollment in the Employees' Retirement System and without suffering loss or interruption of benefits provided by the system or under chapter 87A, HRS, if the retirant is employed as an investigator in a position identified by the Department as a labor shortage or difficult-to-fill position, subject to certain conditions. This bill also provides remedies for ERS if the retirant is reemployed in violation of chapter 88 and the Internal Revenue Code. The bill also requires the Director of Human Resources Development to include details on the employment of retirants as investigators by the Department of the Attorney General in the annual report to the Legislature required under section 88-9(f), HRS.

The Department has identified certain positions of "investigator" as difficult to fill positions that are critically important to the Department's law enforcement capability and objectives. This bill will allow the Department to rehire a retired law enforcement officer as an investigator without the investigator having to re-enroll in the Employee's Retirement System or suffer any loss of benefits so long as: (a) the retirant remains out of State or county employment for at least 12 consecutive calendar months prior to reemployment; (b) the Department identifies a labor shortage or difficult-to-fill position and; (c) the Department confirms that there was no agreement for the retirant to return

to work after retirement. Given the Department's long-standing need for investigators, this bill will help to expedite the process for bringing trained, experienced investigators back to the work force.

We respectfully ask your committees to pass this bill. Thank you for considering our comments.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
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SYLVIA LUKE
LT GOVERNOR
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STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

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TESTIMONY ON SENATE BILL 578, SENATE DRAFT 2

RELATING TO GOVERNMENT

Before the Senate Committees on Ways and Means and Judiciary

Thursday, February 22, 2024; 9:46 a.m.

State Capitol Conference Room 211, Via Videoconference

WRITTEN TESTIMONY ONLY

Chairs Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and members of the Committees:

The Department of Law Enforcement (DLE) submits the following comments on Senate Bill 578, Senate Draft 2 and **recommend an amendment** to ensure the DLE investigators are included in this bill.

This bill allows a retirant to be employed by the Attorney General without reenrollment in the Employees' Retirement System (ERS) and without loss or interruption of benefits provided by the ERS or under chapter 88, HRS, if the position is identified by the Department of the Attorney General as a labor shortage or difficult-to-fill position, subject to certain conditions.

The DLE has the identical difficulties filling investigator positions in our Criminal Investigations, Narcotics Enforcement, and Sheriff Divisions; Office of Inspector General; and the Office of Homeland Security. All of these investigator positions are critical to the success of the DLE's responsibilities to the public and, like the Attorney General, retirees provide a valuable pool of qualified candidates willing to come to the Department. While we recognize that this is not a permanent solution to filling these positions, the DLE needs this exemption for the foreseeable future to allow capabilities and opportunities to develop within the department for others to move into these positions.

The DLE recommends that Section 2 of the bill be amended on page 4, lines 15 through 17 to read as follows:

(6) As an investigator identified by the department of the attorney general or the department of law enforcement as a labor shortage or difficult-to-fill position; provided that:

The proposed addition of the DLE investigators to the bill will significantly help the DLE fill these investigator positions and meet the department's obligations to providing for health and safety of the public.

Thank you for the opportunity to submit testimony in support of the recommended amendments to this bill.