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# A BILL FOR AN ACT

RELATING TO THE HAWAII NATIONAL GUARD.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended  
2 by adding to part II a new section to be appropriately  
3 designated and to read as follows:

4           "§88-           Service of Hawaii national guard members on state  
5 active duty; exempt from mandatory enrollment. (a)

6 Notwithstanding section 88-42 or any other applicable sections  
7 in part II, VII, or VIII, any member of the Hawaii national  
8 guard who is ordered into active duty to provide services to the  
9 State shall be excluded from membership in the system throughout  
10 the person's active duty.

11           (b) Notwithstanding subsection (a), any member of the  
12 system who takes a leave of absence to be on active duty in  
13 service to the State shall be entitled to all benefits and  
14 required to make all employee contributions under the system for  
15 the period during which the employee is on active duty in  
16 service to the State; provided that the contributions shall be  
17 made on the same basis as would have been required had the  
18 employee not been on leave of absence.

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1        (c) This section shall not preclude any member of the  
2 Hawaii national guard who becomes an employee of the State or  
3 any county in a position other than as a member of the Hawaii  
4 national guard ordered into active duty to provide services to  
5 the State from membership in the system pursuant to section 88-  
6 42 or being credited with membership service credit for active  
7 military service pursuant to section 88-132.5.

8        (d) For the purposes of this section, "active duty" means  
9 a duty in the active service ordered by the governor or the  
10 governor's designated representative to provide services to the  
11 State in a time of emergency as prescribed under sections 121-29  
12 and 121-30."

13        SECTION 2. Section 121-29, Hawaii Revised Statutes, is  
14 amended to read as follows:

15        "**§121-29 Active service.** Active service is active duty,  
16 any other duty, or service done under or in pursuance of an  
17 order or call of the President of the United States or an order  
18 of the governor. Any officer or body of troops while on active  
19 service may be relieved from duty by order of the proper  
20 authority."


21        SECTION 3. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST  
JAN 22 2024

# H.B. NO. 2395

**Report Title:**

Militia; National Guard; Employees' Retirement System

**Description:**

Exempts Hawaii National Guard service members activated by the Governor or the Governor's designated representative to state active duty from enrollment in the Employees' Retirement System of the State of Hawaii.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII NATIONAL GUARD.

PURPOSE: The purpose of this bill is to exempt Hawaii National Guard (HING) service members ordered to active duty in service of the State of Hawaii from new enrollment into the Employees' Retirement System of the State of Hawaii (ERS) when they become eligible for enrollment after 90 days of service on active duty to the State of Hawaii.

MEANS: Add a new section to chapter 88, Hawaii Revised Statutes (HRS) and amend section 121-29, HRS.

JUSTIFICATION: HING personnel who are ordered to active duty in the service of the State are designated as state employees. Recently, HING service members have been activated for periods of more than 90 days. After 90 days of active-duty service to the State new service members become eligible for new enrollment in the ERS and are required by law to make mandatory contributions to the ERS.

Although ERS contributions can be reimbursed to the service member once their duty is completed, this creates a financial hardship for the service member as they would be required to pay at least 8% of their pay into the ERS. Additionally, to be vested for retirement the service member is required to be employed by the State or a county for 10 years. There has never been a HING service member who has been ordered to active duty in support of the State and has become newly enrolled in the ERS as a result thereof, to reach vestment for retirement. The financial hardship could also have a negative impact on recruiting and retention efforts for the HING considering the

increasing trend to respond to lengthy state disasters and emergencies.

Lastly, HING service members' rights as existing employees in the ERS will be preserved as they will be allowed to continue to accrue ERS service credit during active duty in service of the State.

Impact on the public: The authorization for service members' exemption from new enrollment into the ERS will improve the HING's posture and flexibility in responding to state disasters and emergencies, particularly in lengthy responses extending over 90 days.

Impact on the department and other agencies: Positive impact to the Department of Defense's recruiting and retention and response posture. There is no known negative impact to other departments.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: DEF 116.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.