

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KENNETH S. HARA
MAJOR GENERAL
ADJUTANT GENERAL
KA 'AKUKANA KENELALA

STEPHEN F. LOGAN
BRIGADIER GENERAL
DEPUTY ADJUTANT GENERAL
KA HOPE 'AKUKANA KENELALA

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAI'I 96816-4495

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 3084
RELATING TO THE HAWAII NATIONAL GUARD

BEFORE THE COMMITTEE ON LABOR AND TECHNOLOGY,
AND COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL
AND MILITARY AFFAIRS

BY

MAJOR GENERAL KENNETH S. HARA
ADJUTANT GENERAL
AND DIRECTOR OF HAWAII EMERGENCY MANAGEMENT AGENCY

FEBURARY 7, 2024

Aloha Chairs Aquino and Wakai, Vice-Chairs Moriwaki and Elefante, and members of both committees:

I am MG Kenneth S. Hara, Adjutant General and Director of Hawaii Emergency Management Agency, State of Hawaii, Department of Defense.

The Department of Defense (DEF) provides written testimony in **SUPPORT** of SB3084.

This measure amends Hawai'i Revised Statutes (HRS) Chapter 88, Part II regarding the Employees' Retirement System (ERS) and provides an exemption for Hawai'i National Guard (HING) Servicemembers serving on State Active Duty (SAD) from enrolling in the ERS once the Servicemember exceeds 90 days of service on SAD.

The HING places great value on selfless service and duty to the State of Hawai'i. We have seen an increase in natural disasters yearly throughout the State resulting in numerous HING Servicemembers to be activated on SAD in response to those disasters. With each activation, HING Servicemembers are asked to serve in an indeterminate timeframe, recently often exceeding 90 days. After a Servicemember

exceeds 90 days on SAD, they are afforded certain employment rights as a temporary State employee, such as mandatory enrollment in the ERS.

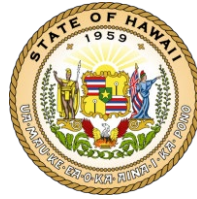
To require HING Servicemembers exceeding 90 days on SAD orders to contribute to the ERS would require them to sacrifice earned compensation on a benefit they will never receive. Many Servicemembers who are ordered to SAD status are not current State and/or County employees in their civilian occupations and subsequently will not vest in the state's ERS nor receive the benefits of their ERS contributions. When the Servicemember requests a refund payment the ERS will withhold at least 20% of the taxable portion of the refund and pay the Servicemember the remaining balance. The taxable portion of the contributions must also be rolled over into an IRA within 60 days of receipt of payment. Additionally, the refund is subject to an additional 10% federal income tax on the taxable portion of the refund payment for those below the age of 55.

If passed, the bill will exempt HING Servicemembers from enrolling in the ERS for SAD periods that exceed 90 days. This will allow our Servicemembers to retain all their earned SAD compensation and help ensure an uninterrupted response force capability to the State.

Thank you for the opportunity to provide testimony in SUPPORT of SB3084.

MG Kenneth S. Hara, Kenneth.s.hara@hawaii.gov; 808-672-1001

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 SENATE COMMITTEES ON LABOR AND TECHNOLOGY
AND PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS
ON
SENATE BILL NO. 3084
February 9, 2024
3:00 P.M.
Conference Room 224 and VIA Videoconference**

RELATING TO THE HAWAII NATIONAL GUARD.

Chairs Aquino and Wakai, Vice Chairs Moriwaki and Elefante, and Members of the Committees,

S.B. 3084 proposes to exclude any member of the Hawaii National Guard (HING) who is ordered into State active duty (SAD) from membership in the Employees' Retirement System (ERS). It proposes a new Section in Chapter 88 of the Hawaii Revised Statutes (HRS) as well as amending the description of "Active service" under HRS § 121-29. The Employees' Retirement System (ERS) staff is providing the following comments.

Section 88-__ (a) of S.B. 3084 excludes all members of the HING under SAD orders from ERS membership. We recommend an amendment to clarify that the exclusion from ERS membership is based on employment through HING SAD orders, as opposed to HING membership. Section 88-__ (a) of S.B. 3084 may be amended to read as follows: "Notwithstanding section 88-42 or any other applicable sections in part II, VII, or VIII, ~~any~~ members of the national guard ~~who is~~ ordered into active duty to provide services to the State shall be ~~excluded from~~ ineligible for membership in the system ~~throughout~~ based on the ~~person's~~ active duty." This amendment has the effect of reinforcing that ERS membership may be maintained based on other State or county employment, and that ERS members on HING SAD orders may be eligible for service,



Employees' Retirement System
of the State of Hawaii

compensation to be included in benefits calculations (“eligible compensation”), and employer payment of employee contributions under HRS § 88-132.

We further recommend the removal of Section 88-__ (b) of S.B. 3084. Proposed subsection (b) is not necessary to clarify that existing ERS members will be entitled to benefits as if not on leave of absence, as the recommended revisions to subsection (a) above and subsection (c) below make clear that ERS membership may be maintained through other State and county employment, while suggested revisions to subsection (c) below make clear that existing ERS members on leave under HING SAD orders will not be precluded from service credits, eligible compensation, and employer payment of employee contributions under the Serviceman’s Act at HRS § 88-132.

Proposed subsection (b) also conflicts with the Serviceman’s Act at HRS § 88-132 in so far as HRS § 88-132 already provides for the reporting of compensation, earning of service credit, and payment of both employee and employer contributions by the employer, for all ERS members who are on qualified leave for involuntary active military duty, including HING involuntary active duty in service to the State. The proposed subsection (b) purports to have the member pay only the employee’s contributions for the period of active duty, which is normally shorter than the period of authorized leave, and which further conflicts with the requirement under HRS § 88-132 for the employer to provide both the employee’s contributions as well as the employer costs up to four years that the member was on qualified leave. The Uniformed Services Employment and Reemployment Rights Act (USERRA) grants rights to service credit for up to five years with the potential for qualified extensions beyond.

We also recommend amendment to subsection (c) of S.B. 3084, to explicitly enumerate service credit pursuant to the Serviceman’s Act at HRS § 88-132 as a benefit from which existing ERS members under HING SAD orders will not be precluded by virtue of subsection (a). Section 88-__ (c) of S.B. 3084, may be amended to read as follows: “This section shall not preclude any member of the Hawaii national guard who [~~becomes~~] is an employee of the State or any county, in a position other than as a member of the Hawaii national guard ordered into active duty to provide services to the State, from membership in the system pursuant to section 88-42, or being credited with membership service credit for active military service pursuant to 88-132 and 88-132.5.”

Thank you for the opportunity to provide testimony on S.B. 3084.

HEADQUARTERS
HAWAI'I ARMY NATIONAL GUARD
91-1227 ENTERPRISE AVENUE
KAPOLEI, HAWAI'I 96707-2150

TESTIMONY IN **SUPPORT** OF SENATE BILL 3084
RELATING TO THE HAWAII ARMY NATIONAL GUARD

BEFORE THE COMMITTEE ON LABOR AND TECHNOLOGY,
AND COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL
AND MILITARY AFFAIRS

BY

COLONEL TYSON Y. TAHARA
CHIEF OF STAFF, HAWAI'I ARMY NATIONAL GUARD

February 9, 2024

Chairs Aquino and Wakai, Vice-Chairs Moriwaki and Elefante, and members of both committees:

I am Colonel Tyson Tahara, Chief of Staff of the Hawai'i Army National Guard (HIARNG) in the State Department of Defense.

The HIARNG provides written testimony **IN SUPPORT OF** SB 3084.

The HIARNG takes great pride in serving the people and government of the State of Hawaii during times of need. Our recent service history includes our response during the Puna lava flow, our state-wide support during COVID-19, and our deployment to Maui following the wildfires there.

Our Soldiers quickly respond to calls from the community. Yet, their mandatory enrollment in the Employees' Retirement System of the State of Hawaii (ERS) reduces their take-home pay for periods of State Active Duty service. Most of our Soldiers do not work for the State and will never earn enough credited service to earn a State retirement. Therefore, their mandatory contributions to ERS do not entitle most of our Soldiers to a corresponding benefit. Exempting Hawaii National Guard members from mandatory enrollment in ERS would remove this burden while allowing those members who are existing members of the system to continue to accrue credited service while on State Active Duty.

Thank you for this opportunity to offer testimony **IN SUPPORT OF** SB 3084 exempting members of the Hawaii National Guard from mandatory enrollment in ERS.

Colonel Tyson Tahara; tyson.y.tahara.mil@army.mil; 808-672-1456

SB-3084

Submitted on: 2/6/2024 5:07:22 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
J. Chun	Individual	Support	Written Testimony Only

Comments:

I support this bill.

SB-3084

Submitted on: 2/7/2024 1:23:30 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jamielyn Thompson	Individual	Support	Written Testimony Only

Comments:

I support SB3084 and the exemption for Hawai'i National Guard members.

Guardsmen serve on various statuses throughout their careers, each coming with specific legal implications, protections, and benefits. When ordered to duty during a state emergency, they should not be automatically enrolled into the state's employee retirement system. Their time on State Active Duty should be temporary. Guard activation is doctrinally clean, so we need to ensure administrative challenges remain minimized.

Mahalo for the opportunity to provide testimony in support of Senate Bill 3084.

SB-3084

Submitted on: 2/7/2024 2:49:24 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Rosner	Individual	Support	Written Testimony Only

Comments:

Exemption from mandatory State Employees Retirement System (ERS) while serving on State Active Duty during an emergency will enable Soldiers to receive the full value of their State Active Duty pay and empower them to make investment and retirement savings decisions that best align with their full-time civilian employee benefit plans.

SB-3084

Submitted on: 2/7/2024 3:45:24 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey Ulep	Individual	Support	Remotely Via Zoom

Comments:

I support the Hawaii National Guard enlisted and officers.

SB-3084

Submitted on: 2/8/2024 12:32:05 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marlon Rimando	Individual	Support	Written Testimony Only

Comments:

This Senate Bill will improve the experience and benefits when serving on State Active Duty (SAD) directly impacting retention and recruitment of Guard members.

SB-3084

Submitted on: 2/8/2024 2:37:20 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel Hernandez	Individual	Support	Written Testimony Only

Comments:

This bill would allow Service Members to make a decision on contributing to ERS, this would also allow SMs selecting to opt out to have more income from serving on orders. Ty

SB-3084

Submitted on: 2/8/2024 3:00:20 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ROY T. YAMADA	Individual	Support	Written Testimony Only

Comments:

I support SB3084 as it gives non-state employees the option to be excluded from the state's mandatory enrollment into the retirement system. If the Service Member is not a state employee there is no benefit or need to enroll into the state system. It is the Service Member's choice to determine the use of their income.

LATE

SB-3084

Submitted on: 2/9/2024 1:06:34 PM

Testimony for PSM on 2/9/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Marumoto	Individual	Support	Written Testimony Only

Comments:

I support this bill. A 8% reduction in pay to a system they won't ever use is pretty steep given these soldiers, airmen, and guardians are being called up to support the citizens of Hawaii.