



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 214, H.D. 1, S.D. 1, RELATING TO GOVERNMENT.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Monday, March 31, 2025

TIME: 10:02 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Diane W. Wong or
Jenny J.N.A. Nakamoto, Deputy Attorneys General,
at (808) 586-0618.)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General (Department) supports the portion of this bill addressing investigators identified by the Department as a labor shortage or difficult-to-fill position.

This bill amends section 88-9, Hawaii Revised Statutes (HRS), to provide that a retirant may be employed without reenrollment in the Employees' Retirement System (ERS) and without suffering loss or interruption of benefits provided by the ERS or under chapter 87A, HRS, subject to certain conditions, if the retirant is employed as an investigator in a position identified by the Department as a labor shortage or difficult-to-fill position. This bill also provides remedies for ERS if the retirant is reemployed in violation of chapter 88, HRS, 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 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 ERS or suffer any loss of benefits so long as: (a) the retirant remains out of state or county employment for

at least six 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 of bringing trained, experienced investigators back to the work force.

The Department respectfully asks the Committee to pass the portion of this bill addressing investigators identified by the Department as a labor shortage or difficult-to-fill position, in its current form, on page 5, line 15, through page 6, line 9.

Thank you for considering our comments regarding this bill.

JOSH GREEN, M.D.
GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/31/2025

Time: 10:02 AM

Location: CR 211 & Videoconference

Committee: Senate Ways and Means

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Bill Title: HB 0214, HD1, SD1 RELATING TO GOVERNMENT.

Purpose of Bill: Allows a retirant to be employed without reenrollment in the Employees' Retirement System and without loss or interruption of benefits under the System or the Hawaii Employer-Union Health Benefits Trust Fund if the retirant is employed as a law enforcement officer stationed at a public school as a resource officer or investigator identified by the Department of Law Enforcement or the Department of the Attorney General, respectively, as a labor shortage or difficult-to-fill position, subject to certain conditions. Requires the Director of Human resources of the appropriate state jurisdiction or the human resources management chief executive of each county to include in their annual reports to the Legislature details on the employment of retirants as school resource officers or investigators. Effective 7/1/2050. (SD1)

Department's Position:

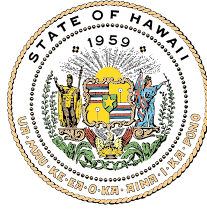
The Hawaii State Department of Education (Department) is in support of HB 214, HD 1, SD 1.

The Department supports any efforts to increase safety within its schools and has no objections to the proposed changes in SD 1. The Department defers to the Department of Law Enforcement as to the implementation of this measure.

Thank you for the opportunity to provide testimony on HB 214, HD 1, SD 1.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

GAIL STROHL
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

**TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
PROVIDING COMMENTS ON
HOUSE BILL NO. 214, H.D.1, S.D.1**

March 31, 2025

10:02 A.M.

Conference Room 211 and VIA Videoconference

RELATING TO GOVERNMENT.

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee,

The ERS Board of Trustees has reviewed this legislation and recognizes the staffing challenges experienced by agencies as a result of vacancies but has concerns about the potential negative impact to ERS' tax qualification resulting from inconsistent interpretation and administration of the criteria applicable to as well as increased costs resulting from missed contributions and longer retirement periods and respectfully offers the following comments.

H.B. 214, H.D.1, S.D.1, proposes to change from 12 months to 6 months the break required for ERS retirees to return to employment in ERS eligible positions of school resource officers and Attorney General Investigators, as designated by the Department of Law Enforcement and the Department of the Attorney General respectively to represent labor shortage or difficult-to-fill positions, without re-enrollment as a member of the system.

ERS respectfully disagrees with the provisions of the bill which allow delegation of the responsibility to identify "difficult-to-fill" or "shortage" statuses to the individual



Employees' Retirement System
of the State of Hawaii

departments or agencies. Current requirements delegate the centralized determination of these statuses to the appropriate jurisdiction to provide for consistent application across agencies of employer. Unequal and irregular administration of the plan may place the ERS's beneficial tax status at risk. The failure to apply clear and uniform criteria applicable to the determination is likely to result in inconsistent determinations and consequent divergent administration on employees under the same employer, in this case the State of Hawaii.

In addition to posing a risk to the plan's tax exemption, a shift in focus from retirement to re-employment alters the fundamental purpose of the plan's intended implementation and runs the risk of an expanding population of "double-dipping" participants. The continued trend of encouraging certain ERS eligible positions to be exempt from the widely accepted 12-month break-in-service increases costs to the system. As more positions are exempt from the accepted 12-month break, more active members are encouraged to retire earlier than they otherwise would have if continuing membership through employment in these normally ERS eligible positions. This increases cost to the system by facilitating earlier and longer pension payouts in combination with the lost opportunity cost of either continuous employment by an incumbent member or by another member with a lower cost to the system, attributable to actuarial factors such as age, salary, and benefit tier.

As a qualified plan under section 401(a) of the Internal Revenue Code (IRC) of 1986, as amended, the ERS and our members enjoy a beneficial tax status which permits contributions to be made on a pre-tax basis and allows benefits to accrue as non-taxable events. Revocation of this tax status could result in irreparable harm and additional tax liability for our members.

Current statute requires a 12-month break in service before re-employment in any ERS eligible position is allowed for an ERS retiree. This addresses the Internal Revenue Service's general prohibition against "in-service distributions" and meets the IRS requirement for a bona fide break in service to exempt the payment of pensions while in-service as an employee of the system from constituting a disqualifying distribution.

To date, the IRS has refused to establish a published time limit for separation before a retiree may resume service without violation of IRS requirements. While six months may be allowed by the IRS, the existing 12-month period currently applied to all retirees in statute is widely viewed as in compliance with IRS requirements. That said, the ERS prefers that the 12-month period be retained and would oppose any breaks lower than six months.

Thank you for the opportunity to provide testimony on H.B. 214, H.D.1, S.D.1.

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov

TO: Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Committee on Ways and Means

FROM: Richard T. Bissen, Jr., Mayor
Josiah K. Nishita, Managing Director

DATE: March 28, 2025

SUBJECT: **SUPPORT OF HB214 HD1 SD1, RELATING TO GOVERNMENT**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. This act would allow a retirant to be employed without reenrollment in the Employees' Retirement System and without loss or interruption of benefits under the System or the Hawai'i Employer-Union Health Benefits Trust Fund if the retirant is employed as a law enforcement officer stationed at a public school as a resource officer or investigator identified by the Department of Law Enforcement or the Department of the Attorney General, respectively, as a labor shortage or difficult-to-fill position, subject to certain conditions. Requires the Director of Human resources of the appropriate state jurisdiction or the human resources management chief executive of each county to include in their annual reports to the Legislature details on the employment of retirants as school resource officers or investigators. Effective 7/1/2050.

We **SUPPORT** this measure for the following reasons:

1. Staffing shortages paired with the 2023 fires have led to an unforeseen and critical shortage of skilled personnel in essential sectors. The hiring of retirees will provide an immediate response to the staffing needs.
2. The expertise and experience of retired professionals are invaluable. The State and Counties invest a lot of time, money, training, etc. into fire and law enforcement personnel who can retire early, opening up the option for retirees to step into an EMA role would allow their skills to be utilized further.
3. As a COMMENT, we humbly ask that you **add to include all State and County Emergency Management Administration Personnel** to ensure that we are ready for the next emergency,

because it isn't a matter of "if" an emergency will occur, it's when. Please reference the proposed language below to be add as a new subsection:

As a State or County Emergency Management Agency position identified by the appropriate jurisdiction as special or unique and essential to the public interest; provided that:

(A) The retirant was not employed by the State or a county during the six calendar months prior to the first day of reemployment.

(B) No agreement was entered into between the State or a county and the retirant prior to the retirement of the retirant, for the return to work by the retirant after retirement; and

(C) The county shall contribute to the pension accumulation fund the required percentage of the rehired retirant's compensation to amortize the system's unfunded actuarial accrued liability.

Mahalo for your consideration.