



**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. 1388, RELATING TO RETIRANTS.

BEFORE THE:
HOUSE COMMITTEE ON LABOR

DATE: Tuesday, February 11, 2025 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Elmira K.L. Tsang, Deputy Attorney General

Chair Sayama 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 (with amendment), and takes no position regarding the portion of this bill addressing investigators identified by the Department of Law Enforcement 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 on page 4, line 19, through page 5, line 15, with amendment as to references to the Department of Law Enforcement should it be deemed appropriate.

Thank you for considering our testimony in support of this bill.

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 HOUSE COMMITTEE ON LABOR
PROVIDING COMMENTS ON
HOUSE BILL NO. 1388**

February 11, 2025

9:00 A.M.

Conference Room 309 and VIA Videoconference

RELATING TO RETIRANTS.

Chair Sayama, Vice Chair Lee, and Members of the Committee,

While the ERS Board of Trustees has not had the opportunity to review this legislation, ERS staff believes the Board would have concerns about the potential negative impact to ERS' tax qualification and respectfully offers the following comments.

H.B. 1388 proposes to change from 12 months to six months, the break required for ERS retirees to return to employment in ERS eligible positions of DLE and Attorney General Investigators, as designated by the employing agencies to represent labor shortage or difficult-to-fill positions, without re-enrollment as a member of the system.

The ERS recognizes the staffing challenges experienced by State and county agencies as a result of these vacancies.

Current statute requires a 12-month break in service before re-employment in any ERS eligible position is allowed without enrollment 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



Employees' Retirement System
of the State of Hawaii

pensions while in-service as an employee of the system from being a disqualifying distribution.

To date, the IRS has refused to establish the 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.

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.

Thank you for the opportunity to provide testimony on H.B. 1388.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



MIKE LAMBERT
DIRECTOR

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF LAW ENFORCEMENT
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JARED K. REDULLA
Deputy Director
Law Enforcement

TESTIMONY ON HOUSE BILL 1388
RELATING TO RETIRANTS
Before the House Committee on
LABOR

Tuesday, February 11, 2025, 9:00 a.m.

State Capitol Conference Room 309, & Videoconference

Testifiers: Jared Redulla

Chair Sayama, Vice Chair Lee, and members of the Committee:

The Department of Law Enforcement (DLE) strongly supports House Bill 1388.

This bill would allow retirants to be employed as investigators in positions identified by the Department of Law Enforcement or Department of the Attorney General as labor shortage or difficult-to-fill positions, without requiring reenrollment in the Employees' Retirement System or losing their retirement benefits.

The DLE has faced significant challenges in filling critical investigator positions, which directly impacts our ability to maintain public safety and carry out essential law enforcement functions. This measure provides a practical solution by allowing us to tap into a pool of experienced professionals with the necessary skills and expertise; while ensuring they can maintain their earned retirement benefits.

The bill includes necessary safeguards to prevent abuse, such as prohibiting pre-retirement agreements and requiring a separation period before reemployment. Additionally, the requirement for employers to contribute to the pension accumulation

fund ensures the financial sustainability of the retirement system while addressing our critical staffing needs.

This legislation will enhance our ability to recruit qualified investigators, particularly in specialized areas where finding candidates with the required expertise has been challenging. It represents a balanced approach that benefits both the department and potential retirant employees while maintaining the integrity of the retirement system.

Thank you for the opportunity to testify in strong support of this bill.