



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

ON THE FOLLOWING MEASURE:

S.B. NO. 442, S.D. 1, RELATING TO GOVERNMENT.

BEFORE THE:

HOUSE COMMITTEE ON LABOR

DATE: Tuesday, March 11, 2025

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Diane W. Wong or Jenny J.N.A. Nakamoto, Deputy Attorneys
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 and takes no position regarding the portion of this bill addressing certain positions of the Department of Law Enforcement (DLE) and certain management positions excluded from collective bargaining under chapter 89, Hawaii Revised Statutes (HRS).

This bill amends section 88-9, 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 twelve 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 and the DLE as a labor shortage or difficult-to-fill position, in its current form at page 4, line 20, through page 5, line 15.

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

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 HAWAII
DEPARTMENT OF LAW ENFORCEMENT
Ka 'Oihana Ho'okō Kānāwai
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Honolulu, Hawai'i 96813

JARED K. REDULLA
Deputy Director
Law Enforcement

**TESTIMONY ON SENATE BILL 442, SENATE DRAFT 1
RELATING TO GOVERNMENT
Before the House Committee on
LABOR**

Tuesday, March 11, 2025, 9:30 a.m.

State Capitol Conference Room 309 & Videoconference

Testifiers: Mike Lambert

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

The Department of Law Enforcement (DLE) supports Senate Bill 442, Senate Draft 1, which allows retirants to be employed as investigators in positions identified by the Department of Law Enforcement without reenrollment in the Employees' Retirement System (ERS) and without loss of benefits.

This bill addresses a critical need by allowing the reemployment of experienced investigators in the DLE without requiring them to forfeit or interrupt their retirement benefits. Specifically, the bill targets positions identified as labor shortages, difficult-to-fill positions, or positions needed for succession planning.

The DLE continues to face significant challenges in filling investigator positions within our Criminal Investigations, Narcotics Enforcement, and Sheriff Divisions; Office of Inspector General; and Office of Homeland Security. These investigator positions are vital to fulfilling our department's responsibility to protect public safety. Retired investigators represent a valuable pool of experienced professionals who could

immediately contribute their expertise to our department's mission.

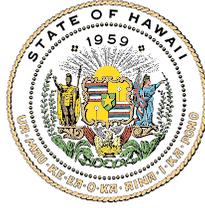
While we recognize this is not a permanent solution to our staffing challenges, this exemption is necessary for the foreseeable future to maintain operational capabilities while developing opportunities for others to advance into these specialized positions. The ability to rehire retirants without impacting their retirement benefits, while still requiring departmental contributions to the pension fund, strikes an appropriate balance between addressing immediate staffing needs and maintaining the integrity of the retirement system.

The bill's requirements for six to twelve months of non-employment prior to reemployment and prohibition on pre-retirement agreements ensure that the system will not be abused, while still providing the flexibility needed to address critical staffing shortages.

Thank you for the opportunity to testify 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
SENATE BILL NO. 442, S.D.1**

March 11, 2025

9:30 A.M.

Conference Room 309 and VIA Videoconference

RELATING TO GOVERNMENT.

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

The ERS Board of Trustees has had the opportunity to review this legislation and has opposition to provisions of the bill regarding potential negative impact to ERS' tax qualification and concerns about others regarding increased cost associated with encouraging more employees to retire and return to employment and respectfully offers the following comments.

S.B. 442, S.D.1, proposes to exclude ERS retirees who return to employment in ERS eligible positions of DLE and Attorney General Investigators as well as management positions excluded from collective bargaining under chapter 89 identified as either labor shortage, difficult-to-fill, or needed for succession planning, 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.



Employees' Retirement System
of the State of Hawaii

However, we oppose or express opposition to provisions of the bill which allow delegation of the responsibility to identify "difficult-to-fill" to the individual departments or agencies.

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. Unequal and inconsistent administration of the plan may place the ERS's beneficial tax status at risk.

We also oppose the addition of "succession planning" as a category for re-employment of retirees without enrollment. For the reasons stated immediately above applicable to "difficult-to-fill", we also oppose the inclusion of "succession planning" as an exception to enrollment of these positions.

The rehire of former rehired workers speaks more to the failure of succession planning than to the proper implementation and support for such a program. Any meaningful shift of our retirement plan away from its intended purpose places our tax qualification at risk and poses financial burden and risk to the plan.

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 "double-dipping" participants in addition to a qualification risk.

The 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 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.

In addition to concerns about compliance with the IRC, there are also funding concerns should the continued trend of encouraging certain positions to be exempt from the 12-month break-in-service. As more positions are exempted from the standard, this would in effect encourage employees who may be considering employment in these normally full-time ERS eligible positions to instead retire earlier than usual. This increases cost

to the system by encouraging earlier and longer pension payouts in combination with the 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.

Thank you for the opportunity to provide testimony on S.B. 442, S.D.1.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Third Legislature, State of Hawaii
House of Representatives
Committee on Labor

Testimony by
Hawaii Government Employees Association

March 11, 2025

S.D. 442, S.D. 1 – RELATING TO GOVERNMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the concept of S.B. 442, S.D. 1, which allows a retirant to be employed without reenrollment in the Employees' Retirement System and without loss or interruption of benefits provided by the ERS or under Chapter 88, HRS, if the retirant is employed as an investigator in a position identified by the Department of the Attorney General or Department of Law Enforcement or an excluded management position of any department as a labor shortage, a difficult-to-fill position, or needed for succession planning, subject to certain conditions.

Our organization represents many groups of employees that are currently short staffed, over worked, and underpaid, including employees in child welfare, permitting, healthcare, and the various administrative, clerical, and professional positions that provide key services that our communities rely on. We find it unfair that this measure only addresses a few groups of employees, including managerial employees excluded from collective bargaining, while there are many groups that are compensated far less and should be equally deserving, if not more, of this benefit. Therefore, if the legislature chooses to prioritize a few job classifications to be entitled to this benefit, then we urge the legislature to consider opening this benefit up to **all job classifications**.

Thank you for the opportunity to provide testimony in opposition to S.B. 442, S.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director