

Honolulu, Hawaii

MAR 23 2007

RE: H.B. No. 1292
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1292, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT
SYSTEM,"

begs leave to report as follows:

The purpose of this bill is to protect the status of the
Employees' Retirement System (ERS) as a tax-qualified retirement
plan under the Internal Revenue Code. The bill accomplishes this
purpose by:

- (1) Repealing provisions that allow elective officers to
exercise an option to join the ERS at any time during
their term of office;
- (2) Repealing provisions that allow elective officers and
judges who have reached the 75 percent statutory cap on
retirement benefits from terminating their ERS
membership while remaining in office;
- (3) Requiring elective officers to exercise their one-time
irrevocable option to join or not join the ERS when they
are elected for the first time; and
- (4) Setting forth the circumstances under which retirants
may return to service as elective officers without
suspension of their retirement benefits.



The Department of Budget and Finance, Office of Hawaiian Affairs, Attorney General, Board of Trustees of the ERS, and the Hawaii State Teachers Association, testified in support of this bill.

Your committee notes that the bill allows retirants to serve as elective officers without suspension of their retirement benefits if:

- (1) They retired under section 88-73(d);
- (2) They have been retired at least twelve consecutive months; or
- (3) Their elective office is not the position from which they retired;

however, if the elective officer does not elect to continue to receive the elective officer's retirement benefits, the elective officer will be automatically re-enrolled in the ERS and will earn additional service credit and gain additional retirement benefits under provisions applicable to all other ERS retirants who return to service.

Your Committee finds that this bill is intended to repeal all provisions for optional membership in the ERS that are not permitted by the Internal Revenue Code, but that this bill is not intended to affect the rights of any ERS members or retirants except to the extent required to protect the ERS's status as a tax-qualified retirement plan.

After careful consideration, your committee amended this bill by revising the first sentence of subsection (b) of the new section added by section 1 of the bill to read as follows:

"Unless the elective officer is already a member of the system, a former member with vested benefit rights, or a retirant, an elective officer shall make an election to become a member or not become a member no later than the later of the elective officer's taking office, or thirty days following the elective officer's election or appointment to office." The purpose of the revision is to clarify that the option to decide whether or not to become an ERS member applies only to those elective officers who are not already in the ERS as a member, a former member who has the right to a pension upon retirement, or a retirant.



"An elective officer includes but not limited to those persons elected to the county councils, Office of Hawaiian Affairs and the legislature." was added to clarify the term elective officer.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1292, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1292, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



