

MAR 16 2009

## SENATE RESOLUTION

REQUESTING THE SENATE COMMITTEE ON LABOR TO CONDUCT A HEARING TO ASSESS THE PERFORMANCE OF THE BOARD OF TRUSTEES OF THE DEFERRED COMPENSATION PLAN AND PLAN ADMINISTRATORS, AND TO RECOMMEND APPROPRIATE MEANS TO RESOLVE COMPLAINTS BY PLAN MEMBERS.

1 WHEREAS, the state Deferred Compensation Plan was  
2 established in 1981 in Chapter 88E, Hawaii Revised Statutes  
3 (HRS), in accordance with section 457 of the Internal Revenue  
4 Code of 1954, as amended, for the benefit of public employees of  
5 the State and the counties of the State of Hawaii to enable  
6 these employees to defer a portion of their compensation to a  
7 future period of time; and

8  
9 WHEREAS, pursuant to Chapter 88E, HRS, a Board of Trustees  
10 was established with its members appointed by the Governor of  
11 the State of Hawaii to perform necessary duties and functions to  
12 establish and maintain a deferred compensation plan and to  
13 engage the services of a plan administrator in accordance with  
14 specifications as may be established by the Board; and

15  
16 WHEREAS, since its inception, the Deferred Compensation  
17 Plan has experienced rapid growth, with large numbers of public  
18 employees participating in the Plan and contributing a portion  
19 of their compensation into the Plan to be held and invested by  
20 the Board of Trustees in accordance with investment products  
21 permitted under the Plan and Chapter 88E, HRS; and

22  
23 WHEREAS, concerns have been raised in recent years about  
24 the Deferred Compensation Plan and the Plan Administrators' lack  
25 of communication with the Plan members, lack of easy access to  
26 information relating to each member's contribution, investment  
27 performance, investment expenses, costs of administration, and  
28 each member's special needs and circumstances; and

29  
30 WHEREAS, numerous public employees and retirees of both the  
31 State and counties who are members of the Deferred Compensation  
32 Plan have complained of the substantial lack of information on  
33 their accounts, their inability to obtain information on their



1 investments from the Plan administrators, and the difficulties  
2 that many of them have experienced in obtaining assistance in  
3 planning for their retirement, in meeting technical requirements  
4 of the Internal Revenue Service, and simply determining what to  
5 do with their investments in a rapidly changing economy; and  
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7 WHEREAS, despite having a Board of Trustees, the members  
8 have little or no information relating to any meetings that the  
9 Board of Trustees may have had or may have in the future on  
10 matters that deal with the investments, with no reports on any  
11 decisions that may have been made by the Board on any current  
12 and future plans for the Deferred Compensation Plan; and  
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14 WHEREAS, some members that have accepted ING Group as their  
15 Plan administrator were promised easy access, timely and  
16 appropriate information, and an excess of information, and these  
17 promises have yet to materialize, resulting instead in difficult  
18 access, with little if any information available to the members;  
19 and  
20

21 WHEREAS, the recent downturn in the economy, the  
22 substantial loss of investments by many Deferred Compensation  
23 Plan members and the need for these members to make decisions  
24 that may affect their investments, and the inability to access  
25 Plan administrators has created great concern among the  
26 employees and retirees with the Deferred Compensation Plan, the  
27 Board of Trustees, and the Plan administrators; and  
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29 WHEREAS, given the growing number of members, particularly  
30 the growing number of retirees, the need to maximize members'  
31 investments, together with the need to make timely and  
32 appropriate decisions regarding members' investments, the Board  
33 of Trustees and the Plan administrators contracted by the Board  
34 of Trustees must take positive steps to allow timely and easy  
35 access to each member's investments to enable the members to  
36 make timely and appropriate decisions on their investments; and  
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38 WHEREAS, there is a need to assess the performance of the  
39 Board of Trustees and the Deferred Compensation Plan  
40 administrators to ensure that the Board of Trustees and the Plan  
41 administrators are acting in the best interest and meeting the  
42 needs of Deferred Compensation Plan members; now, therefore,  
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1 BE IT RESOLVED by the Senate of the Twenty-fifth  
2 Legislature of the State of Hawaii, Regular Session of 2009,  
3 that the Senate Committee on Labor hold a hearing to assess the  
4 performance of the Board of Trustees of the Deferred  
5 Compensation Plan and the Plan administrators, and to recommend  
6 appropriate means to resolve complaints by Plan members; and  
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8 BE IT FURTHER RESOLVED that the Senate Committee on Labor  
9 is requested to review the contract decisions of the Board of  
10 Trustees, including a review of Plan administrators contracted  
11 by the Board of Trustees, Plan administrators' investment  
12 expenses, the number of investment managers retained by Plan  
13 administrators, method of selection of investment managers,  
14 criteria used to retain investment firms, the rate of return for  
15 each investment manager's portfolio, and a comparison of these  
16 investment decisions with deferred compensation plans of other  
17 jurisdictions; and  
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19 BE IT FURTHER RESOLVED that the Board of Trustees, the  
20 Board of Trustees' staff, and Plan administrators are requested  
21 to fully cooperate and promptly respond to requests by the  
22 Senate Committee on Labor in conducting this review; and  
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24 BE IT FURTHER RESOLVED that the Senate Committee on Labor  
25 is requested to produce a report on the Committee's findings and  
26 recommendations, including any proposed implementing  
27 legislation, to the Senate upon the conclusion of the hearing  
28 but no later than twenty days before the convening of the  
29 Regular Session of 2010; and  
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31 BE IT FURTHER RESOLVED that certified copies of this  
32 Resolution be transmitted to the President of the Senate, the  
33 Chair of the Senate Committee on Labor, and the Chairperson of  
34 the Board of Trustees of the Deferred Compensation Plan.  
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OFFERED BY: 

