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DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
HOUSE BILL NO. 2445, H.D. 1

March 16, 2016
9:00 a.m.

RELATING TO PUBLIC EMPLOYEES

House Bill No. 2445, H.D. 1, adds a new chapter to the Hawaii Revised Statutes (HRS), to ensure future Employees' Retirement System (ERS) benefits for public employees who are terminated from public employment due to the privatization of their positions.

The Department of Budget and Finance strongly opposes this measure which provides for the continuation of accruing benefits for persons who are no longer employed by the State due to privatization of their positions.

As detailed in the testimony of the ERS, this measure may have dire consequences for the ERS by jeopardizing its status as a governmental plan which would subject the ERS to federal tax rules applicable to private employer plans, for which the ERS is not compliant. In addition, employee members will be negatively impacted as their contributions would now be subject to federal tax instead of receiving favorable pre-tax treatment.

Furthermore, it is unclear who will make contributions for the employer, including the costs to pay for the current unfunded actuarial accrued liability.

Finally, this measure could be considered a benefit enhancement, which is contrary to Section 88-99, HRS.

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
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 JUDICIARY AND LABOR
ON**

HOUSE BILL NO. 2445, H.D. 1

MARCH 16, 2016, 9:00 A.M.

RELATING TO PUBLIC EMPLOYEES

Chair Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee,

H.B. 2445, H.D. 1 provides for continued Employees' Retirement System (ERS) membership "special benefit coverage" for full-time public employees for whom employment terminates due to privatization of the employee's position upon the assumption of the operation of the government function or facility by an employer other than the State or its political subdivisions or if the facility is purchased by an employer other than the State or its political subdivisions.

The Board of Trustees of the Employees' Retirement System (ERS) opposes H.B. 2445, H.D. 1.

This bill jeopardizes the ERS's status as a "governmental plan" under IRC 414(d) by allowing employees to continue to accrue benefits while employed by a private employer. Loss of "governmental plan" status would mean that the ERS would be subject to federal tax rules applicable to private employer plans and subject the ERS to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The ERS would not be compliant with the federal tax rules applicable to private employer plans. This could lead to the loss of the ERS's status as



Employees' Retirement System
of the State of Hawaii

a “tax-qualified plan” which would be extremely harmful to its entire membership. Contributions received from employee members would no longer have the favorable pre-tax treatment; instead, employees’ contributions to the ERS would be entirely subject to federal tax at the time of contribution. In addition, all members would be taxed on the value of their total accrued retirement benefits at the time they vest rather than when they receive their retirement benefits.

ERS’s tax-qualification issue aside, the Board is already grappling with how to deal with the huge negative funding situation created by Act 103, SLH 2015. The loss to the ERS of ongoing employer and employee contributions, even absent of other special provisions, is forecast to increase the plan’s unfunded liability substantially. This increase in the unfunded liability may result in higher contribution requirements or the maintenance of existing contributions for a longer period of time.

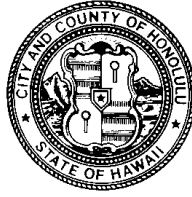
The Board emphasizes its unwavering position that any benefit provided must include the funding necessary to cover its cost and/or amortize the cost of the benefit over time thereby avoiding any increase in the plan’s unfunded liability. A preliminary review of H.B. 2445, H.D.1 by the ERS actuary determines that the ERS would expect to see a decrease in its unfunded actuarial accrued liability (UAAL) of approximately \$35 million due to the termination of the impacted employees. However, the expected impact on ERS funding due to the loss of payroll for the employees and the employer will be significantly greater. With the loss of approximately \$100 million in covered payroll, the ERS will receive \$11 to \$15 million less in contributions in fiscal year 2017 towards the payment of its UAAL. The present value of these lost future contributions over the next 26 years is approximately \$213 million. In order to make the ERS whole, the contribution rates for the remaining employers would need to increase by an additional .39 percent.

Peripherally, H.B. 2445, H.D. 1 also presents many unanswered questions. It does not specify or define what the continuing coverage of the terminated employee would be. If not defined, the employee could continue to accrue ERS benefits indefinitely while also accruing retirement benefits under the new or even a subsequent employer’s plan, based on compensation over which the State has no control and which may have no correlation to the employee’s public sector compensation. ERS benefits are dependent on the transmittal of not only personnel and payroll information by the employer, but also the required employer and employee retirement

contributions. Resolving issues of a governmental plan and private employer, while maintaining ERS tax-qualified status, appears to the ERS to be unattainable.

On behalf of the Board of Trustees and staff of ERS we wish to thank you for the opportunity to testify.

KIRK CALDWELL
MAYOR



NELSON H. KOYANAGI, JR.
DIRECTOR

GARY T. KUOKAWA
DEPUTY DIRECTOR

**Testimony of
NELSON H. KOYANAGI, JR.
Director of Budget and Fiscal Services
City and County of Honolulu**

**Before the Senate Committee on
JUDICIARY AND LABOR
Wednesday, March 16, 2016
9:00 a.m.
State Capitol, Conference Room 016**

**In consideration of
HOUSE BILL 2445, HD1
RELATING TO PUBLIC EMPLOYEES**

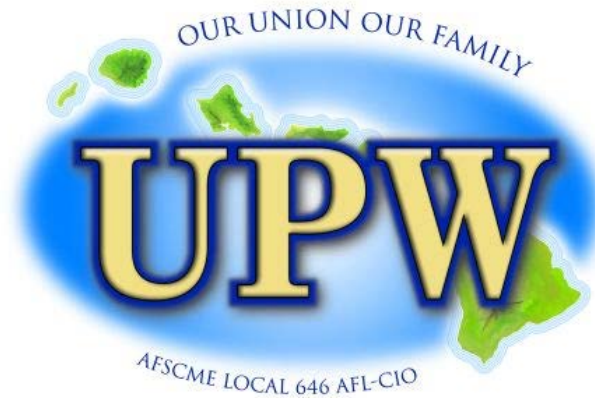
The City and County of Honolulu (City) has concerns regarding House Bill 2445, HD1, which provides retirement system benefits to public employees whose positions are privatized.

The City is concerned about the actuarial losses and increase in unfunded liability to the Employee Retirement System (ERS) resulting from the bill. According to testimony by the ERS Executive Director, there would be an actuarial loss to ERS because some employees who are eligible for retirement could retire under ERS while continuing to work for the private entity after privatization.

The bill does not specify whether there will be continuing contributions on behalf of the privatized members. According to the ERS Executive Director, over 50% of all employer contributions are used to pay for the unfunded liability. If there are no continuing contributions on behalf of the privatized members then contributions from other employers may need to increase to make up for the decrease in contributions. We would like to propose that the employer of the employees whose positions are privatized cover the costs of unfunded liability and actuarial losses related to the benefits provided to these employees.

The City is also concerned about the effects of the bill on ERS's status as a tax qualified plan. The bill allows employees to accrue benefits in the ERS while employed by a private employer. According to testimony by the ERS Executive Director, this would jeopardize ERS's status as a governmental plan under IRC 414(d), and could lead to the loss of ERS's status as a tax qualified plan. As a result, employees' contributions to ERS would be entirely subject to federal tax at the time of contribution, and members would be taxed on the value of their total accrued retirement benefits at the time they vest rather than when they receive their retirement benefits. This would be a severe consequence for ERS members; many would have difficulty paying the taxes on the value of the total accrued retirement benefits at the time they vest.

Thank you for the opportunity to testify on House Bill 2445, HD1.



THE HAWAII STATE SENATE
The Twenty-Eighth Legislature
Regular Session of 2016

COMMITTEE ON JUDICIARY AND LABOR
The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Chair

DATE OF HEARING: Wednesday, March 16, 2016
TIME OF HEARING: 9:00 a.m.
PLACE OF HEARING: State Capitol
415 South Beretania Street
Conference Room 016

TESTIMONY IN SUPPORT OF HB 2445, HD1 RELATING TO PUBLIC EMPLOYEES

By DAYTON M. NAKANELUA,
State Director of the United Public Workers (UPW),
AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, and AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB2445, HD1 Relating to Public Employees ensures future ERS benefits for public employees who are terminated from public employment due to the privatization of their positions.

The UPW **strongly supports** this bill. Many employees in the HHSC Maui Region are facing a crisis situation due to the recent R-I-F notifications. This is an urgent situation and we humbly ask the Committee to pass the bill.

Thank you for the opportunity to submit this testimony.

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for HB2445 on Mar 16, 2016 09:00AM*
Date: Tuesday, March 15, 2016 11:27:37 AM

HB2445

Submitted on: 3/15/2016

Testimony for JDL on Mar 16, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Arnold Abe	Individual	Support	No

Comments:

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March 15, 2016

Dear Legislators,

Thank you for the opportunity to submit testimony on the impact of privatization on Maui Memorial employees and their families. Thank you for any consideration that you make regarding the impact on staff and patient care during this transition, and thank you for working to improve health care on Maui.

As we move closer to the transition date to Kaiser, the stress of this transition becomes more real and more apparent. I have seen a number of my co-workers move from Maui Memorial to other state and county jobs. Our Ohana is shrinking and stressed. I am writing to inform you of the impact of the Public-Private partnership on a personal level. While I am happy to hear that services will be expanded and that healthcare on Maui will get an infusion of cash, expertise and energy, I am concerned about the impact on individual workers. Here are my personal challenges:

I am an RN with a Master's Degree in Nursing Science (paid for on my own dime), and I have dedicated the bulk of my career as a nurse to Maui Memorial. I have also been **paid less** than the private sector with compensation of more leave accrual, and—most importantly—the hope of retirement. As I follow my journey towards Privatization, I find that Kaiser is offering the same pay as I currently earn-- but less benefits. It also seems self-evident that the benefits of long-term state employment are loaded on the back end with retirement making up for the lower pay along the way. Given that Kaiser will be subsidized considerably at the onset of their takeover (in addition to monies set aside for capital improvements), it seems ironic that soon-to-be retirees will be cut short.

Additionally, there are simply very few nursing jobs in my geographic area after the Maui Region transition. I am 58, and there are virtually no nursing jobs within the State or County on Maui so that I may continue the last 2-3 years of my tenure to retire without a 22% penalty. Due to emergency hire and other unusual HR policies/practices, my calculated years of service fall short of the 30 years needed to retire without penalty. I worked part time in the Critical Care Unit while job sharing another position in Quality and Utilization Management. Unfortunately, HR practices only count this as part-time for that time period. Having both of those jobs simultaneously was enriching for me professionally, and it allowed for my clinical expertise to be used in the Quality realm. But now I pay the price of less years of service for my retirement calculation. I have actually been employed at MMMC since 1988 and the majority of time I worked 40 or more hours per week—in Critical Care, Quality, Education, Case Management, and as an instructor at Maui Community College (now UH Maui).

I could use my RIF benefits to try to finish my last few years, but this would create a hardship due to travel, and I would not like the karma associated with “bumping” another employee. This is simply a trickle down solution in which I will not participate. I pay taxes and work hard to thrive on Maui, so this option does not seem to be viable. Lastly, I also have a small egg farm, and my partner would be completely burdened by caring for the animals by himself.

Lastly but definitely not least, I have an 84 year old mother who lives alone on the mainland. I would like to be able to assist her if needed using FMLA benefits. My vacation/sick leave balances will be zero'd as a result of this transition, so I would be in a situation to have to take leave without pay. I have worked at MMMC since 1988, and I have banked a considerable amount of time since I have stayed fairly healthy and not abused my benefits. If I take leave without pay for a time period exceeding a week or two, I will also need to pay the employer portion of my health insurance premium.

I am unable to defer any payout of my vacation (3 months) since I already contribute the maximum amount into my 403b (deferred comp). So this will affect my tax situation.

I am sure that the intent of the legislation for privatization not only wanted to provide for the people who live and love Maui County but also for the workers who have endured the challenges of employment in the State system. Maui Memorial has been the only option for nurses who want to work in an acute care facility. Thank you for your consideration during this transition.

Respectfully,

Penny Souder RN MS
Maui Memorial Medical Center

Here is my service history for the State of Hawaii

- August 1988 Began working as "Emergency Hire" RN at Maui Memorial Medical Center in the Intensive Care Unit (ICU). Emergency Hire status is without benefits, without service towards retirement, and without extra pay. I find this ironic since Hawaii was touted as the "Health State"
- June 1989 Hired as permanent to continue my employment as an ICU staff RN
- Worked full time with ICU RN staff as half of my job and job shared a Quality Management/UR position with an RN from the Surgical Floor – unfortunately it only counted as part-time even though I was scheduled full time
- Obtained my Master's Degree in the Nursing Program at UH through an outreach program. I did this on my own time over 5 years and my own dime including travel to Oahu for the clinical portion of my education
- I worked part-time as an Instructor at MCC Nursing Program but this does not count toward my retirement since I was a clinical instructor for 2.5 days per week
- Worked 10 years as a Case Manager
- Worked as Clinical Educator and coordinated American Heart Association Education Programs as well
- Worked another 15 months as a Staff RN in ICU
- Worked as Clinical Appeals Coordinator
- Currently working as Clinical Documentation Improvement RN

My name is Rorick Kramer. I have input for
HB 2445 – Relating to Public Employees
HB 2446 – Relating to Separation of Benefits
HB 2606 – Relating to Employees Retirement System

My name is Rorick Kramer. I have been employed with Kula Hospital as a Cook IV Kitchen Manager since August 1, 1997, and I am presently eligible to retire with my full pension on October 1, 2016, when I reach age 62.

I left a good paying job in the hotel to work at Kula Hospital. One of the incentives to work for the State was the benefit package that the State had to offer, one of which was being able to retire at the age of 62.

Due to the Kaiser partnership with the State effective July 1, 2016, and the planned reduction in force effective June 30, 2016, I (and many others) will no longer be employed by the State of Hawaii as a government employee. I will lose the benefit that I worked so hard for. Having had colon cancer in 2010 and a recovering cancer patient, I looked forward to receiving my full pension at age 62.

Consideration and fairness should be given to all those that are displaced from their state jobs in all stages of their employment as this was not our choice to leave government service prior to our planned retirement date.

Thank you for your time and consideration.

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for HB2445 on Mar 16, 2016 09:00AM*
Date: Tuesday, March 15, 2016 10:39:04 AM

HB2445

Submitted on: 3/15/2016

Testimony for JDL on Mar 16, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Suzy Okino	Individual	Support	No

Comments:

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HB2445

Submitted on: 3/15/2016

Testimony for JDL on Mar 16, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Calhoun	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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Cc:
Subject: Submitted testimony for HB2445 on Mar 16, 2016 09:00AM
Date: Monday, March 14, 2016 7:58:43 AM

HB2445

Submitted on: 3/14/2016

Testimony for JDL on Mar 16, 2016 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Virgil Medeiros	Individual	Support	No

Comments: I ask that this measure be passed for the benefit of HHSC's Maui region employees whose jobs will be privatized due to no fault of theirs.

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