

Honolulu, Hawaii

APR 26 2018

RE: S.B. No. 2766
S.D. 2
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2766, S.D. 2, H.D. 1, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to reduce and control the unfunded liability of the Employee's Retirement System (ERS) and to prevent future retirement contribution increases by clarifying that accidental death and service-related disability benefits are limited to members who are employed in a position in which all contributions were made as required by the laws relating to the ERS.

Your Committee on Conference finds that as a trust fund, ERS assets are for the exclusive benefit of its members and beneficiaries. The Supreme Court of Hawaii issued a memorandum of opinion on July 10, 2017, on an appeal of a decision by the ERS



Medical Board. The Court found that section 88-21, Hawaii Revised Statutes, defines "service" to include any "service as an employee paid by the State or county", and found additional language that indicates that "connected" service includes non-ERS-membership state or county service, as long as the member makes ERS contributions during the non-ERS-membership state or county service. Separately defined is "membership service" as "all service rendered by a member for which the member had made the required contributions to the system". The Court made the distinction between "service" and "membership service" and noted that section 88-79, Hawaii Revised Statutes, provides for "service-connected disability retirement" and not "membership service-connected disability retirement". Based on this opinion, it may be construed that "service" includes persons working in governmental functions paid by the State or a county who are not members of the ERS. This measure clarifies that benefits related to service-connected disability and accidental death benefits are limited to members who are beneficiaries of the trust.

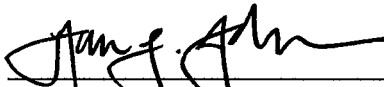
Your Committee on Conference has amended this measure by changing the effective date to upon approval.

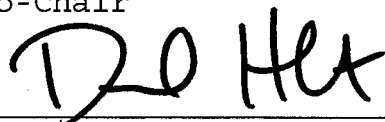
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2766, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2766, S.D. 2, H.D. 1, C.D. 1.

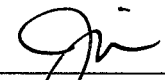
Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE


AARON LING JOHANSON
Co-Chair




DANIEL HOLT
Co-Chair


JILL N. TOKUDA
Chair


GILBERT S.C. KEITH-AGARAN
Co-Chair



Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 2766, SD 2, HD 1					Date/Time: 4/24/18 @ 10:23 am				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
TOKUDA, Jill N., Chr.	/				JOHANSON, Aaron Ling, Co-Chr.	/			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	/				HOLT, Daniel, Co-Chr.	/			
CHANG, Stanley				/	MATSUMOTO, Lauren Kealohilani	/			
TOTAL	2			1	TOTAL	3			
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution:					Distribution:				
Original					Yellow				
File with Conference Committee Report					House Clerk's Office				
					Pink				
					Senate Clerk's Office				
					Goldenrod				
					Drafting Agency				