

Honolulu, Hawaii

FEB 15 2023

RE: S.B. No. 211
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Labor and Technology, to which was referred
S.B. No. 211 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to clarify that
service and compensation awarded as part of an administrative,
arbitral, or judicial proceeding are included in the calculation
of retirement benefits and service time for the Employees'
Retirement System.

Your Committee received testimony in support of this measure
from the Department of Human Resources of the City and County of
Honolulu; State of Hawaii Organization of Police Officers; Hawaii
Fire Fighters' Association; Hawaii Government Employees
Association, AFSCME Local 152, AFL-CIO; Hawaii State Teachers
Association; University of Hawaii Professional Assembly; United
Public Workers; and one individual. Your Committee received
comments on this measure from Employees' Retirement System.

Your Committee finds that this City and County of Honolulu
Mayor's package measure was introduced in response to a December
17, 2021 memorandum, which indicated that judgment settlements and
awards to public employees who have challenged a suspension or
termination may not necessarily be eligible for Employees'



Retirement System benefits in terms of including the employee's retroactive service as creditable service and back pay as compensation. Your Committee recognizes the complexity of the ERS and notes the concerns raised with this measure that it would have a negative impact on ERS' tax qualified status, potentially increase pension-spiking, create an administrative burden on the ERS, and increase ERS' unfunded liabilities.

Accordingly, your Committee has amended this measure by:

- (1) Updating legislative findings;
- (2) Amending language as provided by the Employees Retirement System to provide specific guidance for the clear and determinable award or awards of retroactive reinstatement, retroactive rescission of suspension, retroactive pay differential, and backpay that are restored to an employee as part of an administrative, arbitral, or judicial proceeding;
- (3) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 211, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 211, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

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



SHARON MORIWAKI, Chair



