



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 578, S.D. 1, RELATING TO GOVERNMENT.

BEFORE THE:

SENATE COMMITTEE ON LABOR AND TECHNOLOGY

DATE: Monday, February 12, 2024 **TIME:** 3:15 p.m.

LOCATION: State Capitol, Room 224 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Robyn B. Chun, Deputy Attorney General

Chair Aquino and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

This bill amends section 88-9, Hawaii Revised Statutes, to provide that a retirant may be employed without reenrollment in the Employees' Retirement System and without suffering loss or interruption of benefits provided by the system or under chapter 87A, HRS, if the retirant is employed as an investigator in a position identified by the Department as a labor shortage or difficult-to-fill position, subject to certain conditions.. This bill also provides remedies for ERS if the retirant is reemployed in violation of chapter 88 and the Internal Revenue Code.

The Department has identified certain positions of "investigator" as difficult to fill positions that are critically important to the Department's law enforcement capability and objectives. This bill will allow the Department to rehire a retired law enforcement officer as an investigator without the investigator having to re-enroll in the Employee's Retirement System or suffer any loss of benefits so long as: (a) the retirant remains out of State or county employment for at least 12 consecutive calendar months prior to reemployment; (b) the Department identifies a labor shortage or difficult-to-fill position and; (c) the Department confirms that there was no agreement for the retirant to return to work after retirement. Given the Department's long-standing need for investigators, this bill will help to expedite the process for bringing trained, experienced investigators back to the work force.

Thank you for considering our comments.



JOSH GREEN, M.D.
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 LABOR AND TECHNOLOGY
ON
SENATE BILL NO. 578, S.D. 1
February 12, 2024
3:15 P.M.
Conference Room 224 and VIA Videoconference**

RELATING TO GOVERNMENT.

Chair Aquino, Vice Chair Moriwaki, and Members of the Committee,

S.B. 578, S.D. 1, proposes to amend Section 88-9 of the Hawaii Revised Statutes (HRS) to establish an additional category of retirants who may be employed without reenrollment in the Employees' Retirement System (ERS) and without the loss or interruption of benefits. The Employees' Retirement System (ERS) Board of Trustees (BOT) has not had a chance to review the bill, but the ERS staff is providing the following comments.

The ERS believes that the addition of investigators of the Department of the Attorney General as a category may not be needed. Section 88-9(d)(6) provides for the additional category as, "an investigator identified by the department of the attorney general a labor shortage or difficult-to-fill position". Investigators of the attorney general are covered by Section 88-9(d)(4), which allows the retirant to be employed under a labor shortage or difficult-to-fill position as identified by the appropriate jurisdiction. We believe that the authority to designate positions in the Department of the Attorney General as either labor shortage or difficult-to-fill are under the jurisdiction of the Department of Human Resources Development (DHRD). The ERS will defer to DHRD



Employees' Retirement System
of the State of Hawaii

and the Department of the Attorney General on the appropriateness of delegating the jurisdictional authority in administering this requirement in accordance with all laws and established procedures.

The ERS is also concerned that other departments and agencies will use the statute to include individual position exemptions. The exemptions would require each department or agency in the jurisdiction to establish its own criteria for each position that is established as a labor shortage or "difficult-to-fill" and would lead to inconsistent criteria among positions and departments.

The amendment also includes three requirements for the hiring of these retirants. The ERS believes those requirements, codified for labor shortage or difficult-to-fill positions by Act 179, Session Laws of Hawaii 2010, are necessary for the ERS to protect its tax-exempt status by providing remedies for the ERS against the employer and retirant if a retirant is employed in violation of HRS Chapter 88 and the Internal Revenue Code of 1986.

If the bill moves forward, the ERS recommends that Section 88-9(f) be modified to include subsection 88-9(d)(6) to read "(f) No later than twenty days prior to the convening of each regular legislative session, the director of human resources of the appropriate state jurisdiction or the human resources management chief executive of each county shall submit an annual report to the legislature detailing the employment of retirants under paragraphs (4), ~~[and] (5), and (6)~~ of subsection (d), including the number and positions of retirants."

Thank you for the opportunity to provide testimony on S.B. 578, S.D. 1.