

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

SETH S. COLBY, Ph.D.
DIRECTOR

SABRINA NASIR
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
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

TESTIMONY BY SETH S. COLBY, Ph.D.
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON LABOR AND TECHNOLOGY
ON
HOUSE BILL NO. 1655, H.D. 1

March 16, 2026
3:00 p.m.
Room 225 and Videoconference

RELATING TO PUBLIC EMPLOYMENT

The Department of Budget and Finance strongly opposes this bill.

House Bill No. 1655, H.D. 1, amends Chapter 89-9, HRS, to allow public employee organizations to negotiate retirement benefits.

First, the bill is inconsistent with Chapter 88-99, HRS, which provides that there shall be no benefit enhancements to retirement benefits for any group of members, including any reduction of retirement age, until such time as the actuarial value of the system's assets is 100% of the system's actuarial accrued liability. The State's pension unfunded liability remains a serious concern. The State has a long-term plan to address that liability, but this bill would significantly disrupt those plans and make it almost impossible to control the State's unfunded pension liability.

In addition, allowing each bargaining unit to negotiate its own benefits could essentially create 15 different pools of employees, increasing administrative complexity of the Employees' Retirement System. Each negotiating team would need to be advised or trained on retirement benefit matters, including compliance with federal requirements.

Finally, for many bargaining units, arbitration is part of the resolution process. Allowing arbitration panels to decide matters relating to retirement benefits is fraught with uncertainty. Arbitration panels are tasked to consider the employer's ability to pay and overall economic conditions. Panels often fail to grasp the complexities of the State budget, and under the provisions of this measure, they would also need to become experts in retirement plan design. While difficult fiscal conditions can make it challenging to reach resolutions in collective bargaining (CB) negotiations, altering the current process by allowing binding arbitration would take this critical decision out of the hands of elected leaders and put it in the hands of unelected and unaccountable arbitrators. While the Legislature would still have the authority to reject an arbitration award, it appears all cost items would be rejected, not just retirement benefits. This bill could result in the Legislature facing a choice of fully conceding control of this significant portion of the budget to arbitration panels or risk unending CB negotiations.

Thank you for your consideration of our comments.

JOSH GREEN, M. D.
GOVERNOR
KE KIA'ĀINA

SYLVIA LUKE
LT. GOVERNOR
KA HOPE KIA'ĀINA



J.N. MUSTO, PhD
CHIEF NEGOTIATOR
KE PO'O KUKAKUKA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
OFFICE OF COLLECTIVE BARGAINING
KE KE'ENA MĀLAMA LIMAHANA AUPUNI
OFFICE OF THE GOVERNOR
KE KE'ENA O KE KIA'ĀINA
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

Statement of
J.N. Musto, PhD
Chief Negotiator, Office of Collective Bargaining

Before the
SENATE COMMITTEE ON LABOR AND TECHNOLOGY
Monday, March 16, 2026
3:00PM
State Capitol, Conference Room 225

In consideration of
HB1655 HD1, RELATING TO PUBLIC EMPLOYMENT

(WRITTEN TESTIMONY ONLY)

Chair Elefante, Vice Chair Lamosao, and the members of the committee:

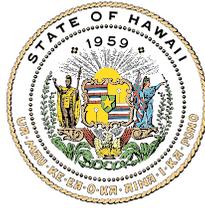
The Office of Collective Bargaining (OCB) appreciates the intent of HB1655 HD1, which allows public employee organizations to negotiate retirement benefits. However, OCB respectfully opposes this measure for the following reasons:

- Currently, retirement benefits are determined by the Employees Retirement System (ERS) by statute. Changes to the retirement statute, existing administration and infrastructure may be required.
- The complexity of having to administer multiple retirement benefits based on variations between bargaining units and for each collective bargaining agreement (cba) period would require a redesign of the administrative and operations infrastructure.
- Besides allowing active employees to negotiate retirement benefits, consideration will need to be given how retiree health benefit plans will be funded.
- Three (3) bargaining units (i.e., units 1, 5, and 7) do NOT have an impasse procedure ending in a final and binding arbitration. The UPW workers, the HSTA teachers, and the University of Hawai'i Faculty Members have the legal right to strike.

Thank you for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



KALBERT K. YOUNG
EXECUTIVE DIRECTOR

GAIL STROHL
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

TESTIMONY BY KALBERT YOUNG
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE SENATE COMMITTEE ON LABOR AND TECHNOLOGY
ON
HOUSE BILL NO. 1655 HD1
March 16, 2026
3:00 PM
Conference Room 225 and VIA Videoconference

RELATING TO PUBLIC EMPLOYMENT.

Chair Elefante, Vice Chair Lamosao, and Members of the Committee,

The ERS Board of Trustees (BOT) is in **strong opposition** to HB 1655 HD1. As with SB 2716 from the 2024 session, tax counsel has reviewed HB 1655 HD1 and identified concerns which would jeopardize the ERS's tax qualification. Loss of beneficial tax treatment, along with implementing unachievable operational requirements, would be catastrophic to the system and its members.

HB 1655 HD1 proposes to remove the exclusion in Section 89-9, Hawaii Revised Statute (HRS), on negotiating retirement benefits which are currently governed under Chapter 88, HRS, to allow public employee organizations to negotiate retirement benefits. Any allowance of retirement benefits to be negotiated through separate collective bargaining agreements would cede control over the plan's benefits, liabilities, contributions and funding levels to the detriment of the plan's sustainability, both legally and fiscally.

Loss of ERS's beneficial tax qualification would have the following harmful effects to the system and its membership:



Employees' Retirement System
of the State of Hawaii

- 1) The loss of pre-tax pickup of employee contributions;
- 2) Immediate payment of tax-deferred contributions;
- 3) Payment of taxes on vested benefits;
- 4) Payment of income tax on trust earnings; and
- 5) Rollovers to other qualified plans would be disallowed.

Allowing aspects of ERS retirement benefits to be administered in accordance with negotiations between collective bargaining units (or individual employees, pursuant to grievance procedures set forth in collective bargaining agreements) and employers, places the ERS's tax-qualified status at risk for violation of a significant number of IRS rules and regulations. Amongst them would be the plan document rule, which requires that qualified plans be administered in accordance with the terms of its plan documents, the "definitely determinable benefits" rule and the IRS prohibition against "cash or deferred" provisions in qualified retirement plans.

The ERS is obligated to operate in strict accordance with the plan document of HRS Chapter 88. If, as proposed, there are collectively bargained retirement benefits for any one of the combinations of 15 Bargaining Units and employers or agencies that conflict with the terms of the ERS plan document at HRS Chapter 88 for the four classes of member over 7 possible tier combinations in the same year they take effect, benefits would not meet the definitely determinable benefits requirements established by the IRS.

The ERS is a tax-qualified governmental retirement plan under the Internal Revenue Code ("IRC"). See H.S.C.R. No. 343 (2011) ("Hawaii's ERS is currently a tax-qualified retirement plan under the IRC"); see also HRS § 88-22.5 ("the [ERS] shall be administered in accordance with the requirements of section 401(a)... of the Internal Revenue Code of 1986, as amended"); and Stand. Comm. Rep. No. 692, in 2004 Senate Journal, at 1359 (indicating HRS § 88-22.5 was enacted "to ensure that the tax-qualified status of the [ERS] is not placed in jeopardy").

The ERS staff further believes that allowing any of the 15 bargaining units of the employee organizations and five employers (State and four counties) and other agencies to each separately negotiate benefits to be paid by the ERS under each of the four plans of member classes (three of which have two tiers), would pose negative implications for the sustainability of the plan, prove administratively burdensome and expensive but more importantly place at risk the plan's IRS qualified status. The ERS has consulted with its tax counsel regarding the potential negative impact of HB 1655 on the ERS's tax qualified status and they have indicated in writing that they share our concerns.

Accordingly, the ERS believes the long-term sustainability of the plan is best served by the statutory scheme and governance structure currently in place as set forth in HRS Chapter 88.

The general administration and operation of the ERS is vested in the ERS's Board of Trustees. The determination of plan benefits and contribution rates is vested with the legislature. The ERS, its plan and retirement benefits for State and county employees are governed by HRS Chapter 88, Hawaii Administrative Rules Title 6 and Internal Revenue Code (IRC) § 401(a). ERS statutes and administrative rules currently establish the classes of employees along with requirements for each class of employee, including membership, membership tier, employee contributions, employer contributions, accrual of service credits, included earnings, parameters for retirement eligibility and calculation of benefits. The proposed bill places no limits as to what aspect of ERS retirement benefits or service accrual may be negotiated separately by the current 15 bargaining units of the employee organizations and five employers.

Allowing those aspects of ERS retirement benefits identified above to be modified by separate negotiations between each collective bargaining unit and each employer, could create inequities among the employees in each of the ERS's classes of employees. Individual or mass arbitration resulting in retroactive benefit accrual and payment would have potential constitutional, administrative and further equity concerns. The ERS would have difficulty administering the different benefit structures that result from collective bargaining within any of the plans for the classes and meeting any accompanying need for additional staff and resources. Changes to ERS's pension processing system would also result in constant additional funding requirements and staff engagement.

Allowing those aspects of ERS retirement benefits identified above, to be determined and/or modified by separate negotiations between individual employees and their respective employer (pursuant to grievance procedures set forth in collective bargaining agreements), may violate the HRS § 88-99 moratorium on benefit enhancements, which states: "There shall be no benefit enhancements under this chapter for any group of members, including any reduction of retirement age, until such time as the actuarial value of the system's assets is one hundred per cent of the system's actuarial accrued liability."

The current requirements for included earnings and the calculation of benefits in the statutes factor into efforts by the ERS and the State to reach full funding (100%) of the plan in 2046. The ERS's Unfunded Actuarial Accrued Liability is \$14.4 billion as of June 30, 2025, and its actuarial funded ratio is 63.6%. The ERS has improved its funded ratio from a low of 54.7% in 2016 with the current membership, contribution, eligibility, and benefit requirements in place. Notable changes made by the Legislature to increase contribution rates and to lower benefits for employees hired after June 30, 2012, have significantly contributed to the lowering the of the plan's unfunded liability.

Thank you for your consideration of our testimony in **strong opposition** to HB 1655 HD1.



1200 Ala Kapuna Street • Honolulu, Hawai'i 96819
Tel: (808) 833-2711 • Fax: (808) 839-7106 • Web: www.hsta.org

Osa Tui, Jr.
President

Logan Okita
Vice President

Cheney Kaku
Secretary-Treasurer

Andrea Eshelman
Executive Director

TESTIMONY TO THE HAWAI'I SENATE COMMITTEE ON LABOR AND TECHNOLOGY

Item: HB 1655, HD1 – Relating to Public Employment

Position: Support

Hearing: Monday, March 16, 2026, 3:00 pm, Room 225

Submitter: Osa Tui, Jr., President - Hawai'i State Teachers Association

Dear Chair Elefante, Vice Chair Lamosao, and members of the committee,

The Hawai'i State Teachers Association (HSTA) **supports** H.B. 1655, HD1, which seeks to expand the scope of collective bargaining by allowing public employers and exclusive representatives to negotiate certain retirement benefits. Currently, Section 89-9(d) of the Hawai'i Revised Statutes specifically excludes retirement benefits from the subjects of negotiation. This measure provides a critical pathway for the state and its public employees to address long-term financial security through the bargaining process, ensuring that compensation packages remain competitive and responsive to the needs of educators.

By amending the existing statutory exclusions, H.B. 1655, HD1 acknowledges that retirement benefits are a fundamental component of the terms and conditions of employment. This change fosters a more collaborative approach to recruitment and retention, particularly as the state navigates ongoing challenges in staffing essential public services. We respectfully urge the committee to pass this measure.

Mahalo.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

THE SENATE
KA 'AHA KENEKOA

THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2026

COMMITTEE ON LABOR AND TECHNOLOGY

Senator Brandon J.C. Elefante, Chair
Senator Rachele Lamosao, Vice Chair

Monday, March 16, 2026, 3:00 PM
Conference Room 225 & Videoconference

Re: Testimony on HB1655, HD1 – RELATING TO PUBLIC EMPLOYMENT

Chair Elefante, Vice Chair Lamosao, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

UPW **strongly supports** HB1655, HD1, which allows public employers and exclusive representatives of bargaining units to negotiate certain retirement benefits.

For the past several years, the Legislature has sought answers from the Department of Human Resources Development (“DHRD”) about what is collectively being done to fill the State’s vacant positions. Simultaneously, similar questions are being asked of DHRD’s counterparts at the county level. While State and county agencies have taken steps to strengthen their ability to attract new employees (e.g., recruitment bonuses), UPW believes improving retention has generally relied upon hypothetical repricing scenarios and unproductive discussions about longevity bonuses for longtime public employees.

While some county governments, with the hope to improve recruitment and retention, have proposed statutory changes to restore retirement benefits that were previously available to specific groups of employees (e.g., police officers), there has been no significant, widespread effort to utilize retirement benefit enhancements to retain public workers. This is because there has been a moratorium on retirement benefit enhancements since 2011. Section 88-99, Hawaii Revised Statutes (“HRS”), states, “[t]here shall be no benefit enhancements under this chapter for any group of members, including any reduction of retirement age, until such time as the actuarial value of the system’s assets is one hundred per cent of the system’s actuarial accrued liability.” As a result, the Employees’ Retirement System (“ERS”), has opposed all recent legislation that proposed to improve retirement benefits, in part, due to this statutory provision.

HEADQUARTERS

1426 North School Street
Honolulu, Hawaii 96817-1914
Phone 808.847.2631

HAWAII

362 East Lanikaula Street
Hilo, Hawaii 96720-4336
Phone 808.961.3424

KAUAI

2970 Kele Street, Suite 213
Lihue, Hawaii 96766-1803
Phone 808.245.2412

MAUI

841 Kolu Street
Wailuku, Hawaii 96793-1436
Phone 808.244.0815

1.866.454.4166

Toll Free - Molokai/Lanai only

Since the establishment of this moratorium over a decade ago, the Legislature has approved a handful of measures that have slowly degraded post-retirement benefits for prospective employees and public workers returning to the public sector following an extended break in service. Given the current moratorium and the exclusion of retirement benefits from the scope of contract negotiations, there is little recourse to address the diminishing value of retirement benefits.

Mahalo for this opportunity to testify in support of this measure.

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Honolulu, Hawaii 96817-1914
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Phone 808.244.0815

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Third Legislature, State of Hawaii
The Senate
Committee on Labor and Technology

Testimony by
Hawaii Government Employees Association

March 16, 2026

H.B. 1655, H.D. 1 — RELATING TO PUBLIC EMPLOYMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 1655, H.D. 1, which allows public employers and exclusive representatives of bargaining units to negotiate certain retirement benefits.

Our state's retirement benefits used to be one of the primary reasons why individuals sought a career in public service. However, over time our state's retirement plan has diminished for new employees. For the state to become a competitive employer they must take a holistic approach in respect to an employee's retirement plan, particularly for future employees and generations. The newer generation may think differently about retirement, and it may be important for the state to work with public sector unions to develop retirement benefits that would be appealing and attractive to them, but also cost effective for the state. The topic about retirement benefits for future employees at least warrants a conversation between public sector unions and the state.

Thank you for the opportunity to provide testimony in support of H.B. 1655, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director

LATE



The Senate Committee on Labor and Technology

March 16, 2026

Room 225

3:00 PM

RE: **HB 1655 HD1, Relating to Collective Bargaining**

Attention: Chair Brandon J.C. Elefante, Vice Chair Rachele Lamosao, Members of the Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **supports HB 1655 HD1.**

Under current state law, public employers and exclusive representatives are strictly prohibited from negotiating retirement benefits. This bill removes that statutory exclusion, thereby allowing retirement benefits to be bargained for in the same manner as wages, hours, and other terms of employment. We support this measure because enabling the parties to negotiate retirement benefits provides the flexibility needed to create more comprehensive and competitive compensation packages. This change is essential and will assist in the recruitment and retention of high-quality faculty members.

UHPA supports the passage of HB 1655 HD1.

Respectfully submitted,

Christian L. Fern
Executive Director
University of Hawaii Professional Assembly

University of Hawaii
Professional Assembly

1017 Palm Drive ♦ Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 ♦ Facsimile: (808) 593-2160
Website: www.uhpa.org