



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 2836, RELATING TO EMPLOYMENT OF RETIRANTS.

BEFORE THE:

SENATE COMMITTEE ON EDUCATION

DATE: Friday, February 6, 2026

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Anne T. Horiuchi, Deputy Attorney General

Chair Kim and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill establishes a five-year pilot program authorizing the Department of Education (DOE) to rehire retired teachers and educational officers for hard-to-staff positions.

New section 302A- (b), Hawaii Revised Statutes (HRS) (page 3, lines 9-12), provides:

A retirant may be employed without reenrollment in the employees' retirement system and suffer no loss or interruption of benefits provided under chapters 87A and 88 if the retirant is employed under this section.

This provision is unclear as to whether the Employees' Retirement System (ERS) or the DOE would have the authority and responsibility to administer this requirement.

New section 302A- (e)(1), HRS (page 5, lines 4-6), provides in part that a retirant reemployed under this section must not have been employed by the State or a county during the six calendar months preceding reemployment. By contrast, section 88-9(d)(5)(A), HRS, requires a twelve-month non-employment period for certain retirant teachers employed in teacher shortage areas, charter schools, or as mentors. Applying different non-employment periods to similarly situated retirant teachers may result in inconsistent treatment. To promote fairness and consistency, the Department

recommends revising either section 88-9(d)(5)(A), HRS, or new section 302A- (e)(1), HRS (page 5, lines 4-6), to align the applicable time periods.

New section 302A- (h), HRS (page 5, lines 15-18), provides that the retirant shall be included in the appropriate bargaining unit for purposes of payment of dues and grievance protections, but excluded from tenure and promotion provisions. While the Legislature has authority to amend chapter 89, HRS, the Department is concerned that this subsection would effectively impose terms and conditions of employment that are ordinarily subject to collective bargaining agreement negotiated pursuant to chapter 89, HRS. Consequently, the Department recommends deleting new section 302A- (h) on page 5, lines 15-18, and renumbering subsequent subsections accordingly.

New section 302A- (j), HRS (page 6, lines 5-10), authorizes the Superintendent to establish a salary schedule for retirants. To the extent retirants are included in a bargaining unit under chapter 89, HRS, compensation is a mandatory subject of collective bargaining and is governed by the applicable collective bargaining agreement. Authorizing the Superintendent, by statute, to establish a separate salary schedule may therefore conflict with existing agreements negotiated pursuant to chapter 89, HRS. The Department recommends deleting new section 302A- (j) on page 6, lines 5-10, and renumbering the subsequent subsection accordingly.

Thank you for the opportunity to provide comments on this bill.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/06/2026

Time: 01:00 PM

Location: CR 229 & Videoconference

Committee: EDU

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: SB2836, RELATING TO EMPLOYMENT OF RETIRANTS.

Purpose of Bill: Establishes a 5-year pilot program to authorize the Department of Education to rehire retired teachers and educational officers for hard-to-staff positions.

Department's Position:

The Hawaii State Department of Education (Department) provides comments regarding SB 2836 to address persistent teacher and educational officer shortages by allowing retired educators to return to service. The Department has concerns with the bill as written and cannot support it in its current form. However, the Department shares the Legislature's commitment to exploring innovative approaches to Hawaii's recruitment and retention challenges and look forward to working with the Legislature to find a way forward.

While we support the intent of this measure, we respectfully offer the following considerations:

Successfully implementing annual certification requirements, reappointment processes, and compliance monitoring would require additional resources and staffing support for our human resources system to ensure smooth operations and program success.

Additionally, the bill raises labor relations concerns by allowing compensation structures outside existing collective bargaining agreements. Establishing separate salary schedules for retired employees could lead to contractual conflicts, grievances, and delays in implementation.

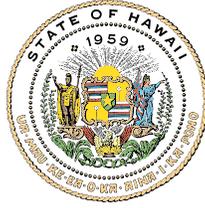
Finally, the bill's success depends on attracting a sufficient pool of retirees willing and able to return to full-time teaching or educational officer positions. The bill requires that individuals must not have held employment with the State or a county within the six calendar months immediately preceding re-employment. Currently, the Department lacks the necessary data to estimate the number of retirees who would be willing to return to work under this condition.

The Department remains committed to working with the Legislature to develop comprehensive solutions to our educator workforce challenges.

Thank you for the opportunity to provide testimony on SB 2836.

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 EDUCATION
ON
SENATE BILL NO. 2836**

February 6, 2026

1:00 PM

Conference Room 229 and VIA Videoconference

RELATING TO EMPLOYMENT OF RETIRANTS.

Chair Kim, Vice Chair Kidani, and Members of the Committee,

While the Board of Trustees (BOT) has not had a chance to review the bill, the Employees' Retirement System (ERS) appreciates the intent of SB 2836 and is thankful for the opportunity to offer comments suggesting amendments regarding this measure.

SB 2836 proposes to amend Section 88-9 of the Hawaii Revised Statutes (HRS) to allow positions identified under an amendment to Chapter 302A to be filled by a retiree without reenrollment into the system after a six-calendar month break.

As this bill progresses, there are a number of components which are important for the stability and sustainability of the pension system. ERS respectfully suggests the bill be amended to provide for a twelve-calendar month break along with the prohibition on post-retirement agreements to return to work. This provision would be consistent with existing statutes that currently permit the return of other teacher or administrator positions identified in a shortage area or as a new classroom teacher mentor. This amendment would provide for sufficient employment separation and consistent general



Employees' Retirement System
of the State of Hawaii

application of the retirement statutes which are important components expected as requirements to retain the tax qualified (exempt) status under Internal Revenue Code (IRC) for the state's pension system.

On October 24, 2014, the IRS issued a favorable determination letter confirming ERS's plan terms in chapter 88, HRS, which included the currently established twelve-month break applicable to a retiree providing services in a similar capacity and function to duties prior to retirement, had met the requirements of section 401(a), IRC. Based on indications from tax counsel and the IRS, ERS believes that a more conservative break duration is prudent to be implemented for positions where retirees return in positions functionally performing the same duties and in the same capacity as those done prior to retirement.

The inclusion of a six-month break for positions not eligible for membership and a twelve-month break for positions which are eligible for membership, are meant to fulfill both the requirements for a bona fide break and prevention of an expectation for post-retirement employment to prevent an impermissible in-service distribution. The six-month break was implemented for the bona fide break period for positions not eligible for ERS employment, as the employment parameters are often part-time or temporary in nature, due to tax counsel advice to ERS that the IRS does not consider that "retirement does not include a mere reduction in the number of hours that an employee works."

We support the SB 2836 requirements for funding contributions to be required by the employer towards the pension accumulation fund to amortize the system's unfunded accrued liability which mitigates the lost contributions when these positions are filled with unenrolled retirees rather than active members or reenrolled retirees earning retirement benefits. The amount employer(s) will contribute under the proposed approach will be less than for a conventional employee who is also a ERS member working towards a pension. There is no requirement for the employee to fund the pension accumulation expense.

The ERS respectfully recommends that the above requirements for a bona fide break in service, prohibition of a post-retirement employment agreement, as well as the requirement of employer contributions to be made for the amortization of the system's unfunded liability be included in Section 88-9(d) as the chapter governing the system, for the positions stipulated under section 302A.

Thank you for the opportunity to provide comments on SB 2836.



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 Education

Testimony by
Hawaii Government Employees Association

February 6, 2026

S.B. 2836 — RELATING TO EMPLOYMENT OF RETIRANTS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO wishes to provide comments on S.B. 2836, which seeks to establish a 5-year pilot program to authorize the Department of Education to rehire retired teachers and educational officers for hard-to-staff positions.

Section 2 of the bill adds a new section to chapters 302A, Hawaii Revised Statutes (HRS), which includes, but is not limited to, the following:

Paragraph (h) of part III, subpart B, states:

The retirant shall be included in the appropriate bargaining unit under section 89-6 for the payment of dues and grievance protections, but shall be excluded from tenure and promotion provisions.

Paragraph (j) of part III, subpart B, states:

The superintendent may establish a salary schedule for retirants employed by the department that differs from the applicable collective bargaining agreement negotiated under chapter 89; provided that the salary of the retirant shall not exceed the maximum salary step for the position's classification in the collective bargaining agreement.

Therefore, if the superintendent elects to establish a different salary schedule under paragraph (j), the superintendent must negotiate the proposed salary schedule with the respective exclusive representative pursuant to chapter 89-9 (HRS), as retirants remain part of their appropriate bargaining units under paragraph (h).

Thank you for the opportunity to provide comments on S.B. 2836.

Respectfully submitted,


Randy Perreira
Executive Director