



*The Judiciary, State of Hawai'i*

**Testimony to the Senate Committee on Judiciary and Labor**

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, February 05, 2016, 9:00 a.m.  
State Capitol, Conference Room 016

By

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**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2244, Relating to Retirement.

**Purpose:** Senate Bill No. 2244 proposes to amend the provisions of chapter 88, Hawai'i Revised Statutes, to: 1) establish different age and service retirement requirements for current ERS members who subsequently become a judge after June 30, 2016 and for new ERS members who become a judge after June 30, 2016, and 2) reduces the service retirement allowance for credited service as a judge for new judicial appointments after June 30, 2016.

**Judiciary's Position:**

The Judiciary respectfully opposes Senate Bill No. 2244 as it: 1) establishes more stringent age and service requirements for persons being appointed as a judge after June 30, 2016, and 2) creates a disincentive for current ERS members to become judges due to the reduced service retirement allowance for credited service as a judge.

Prior to passing Act 163, Session Laws of Hawai'i 2011, the age and service retirement requirements for judges were the same as for other contributory plan members who became members of the ERS at the same time, i.e., age 55 with 5 years of service. With the passing of Act 163, the age and service requirements for current contributory plan members remained at age 55 with 5 years of service. However, for those contributory plan members who became judges after June 30, 2012, their age and service requirements increased to age 60 with 10 years of



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service. Thus, while other contributory plan members remained at age 55 with 5 years of service, a disparity arose with those ERS members who became judges after June 30, 2012.

Senate Bill No. 2244 will result in further expansion of this disparity by increasing the age and service requirements to age 65 with 12 years of service for existing ERS members who become judges after June 30, 2016. If these members retain their current ERS membership status and not become judges after June 30, 2016, i.e., stay in the contributory plan as a general employee, they would maintain the vesting requirements of age 55 with 5 years of service instead of being subject to the age 65 with 12 years of service vesting requirements.

Senate Bill No. 2244 also impacts new ERS members upon appointment as judges after June 30, 2016. New ERS members who are appointed judges after June 30, 2016 will be subject to the vesting requirements of age 65 with 12 years of service. The age 65 with 12 years of service vesting requirements is more stringent than any other category of ERS members. This new requirement will not be applicable to other members in the contributory or hybrid classes such as the general group of employees/members, fire or police officers, and elected and legislative officials. Furthermore, new ERS members who are appointed judges at age 59 or older will not meet the more stringent vesting requirement of 12 years as the Hawaii State Constitution requires mandatory retirement for judges at age 70. Some very experienced attorneys could thereby be deterred from applying as they would not be eligible for any pension benefits upon retirement and would give up actively earning more from their present retirement plan.

Adding to this disparity, Senate Bill No. 2244 proposes to again decrease the service retirement allowance for credited service as a judge from 3.0% (already decreased from 3.5% under Act 163 for judges appointed after June 30, 2012) to 2.0% for new judicial appointments after June 30, 2016. In particular, the more stringent age and service requirements (age 65 with 12 years of service), together with having no increase in the service retirement allowance upon becoming a judge serves as a disincentive for those **current** ERS members who wish to become judges, such as prosecutors, public defenders, deputy attorney general, etc. who already earn a 2.0% retirement allowance.

For these reasons, the Judiciary respectfully opposes Senate Bill No. 2244.

Thank you for the opportunity to provide testimony on Senate Bill No. 2244.