



The Judiciary, State of Hawai'i

Testimony to the Twenty-Ninth State Legislature, 2017 Session

Senate Committee on Ways and Means

Senator Jill Tokuda, Chair

Senator Donovan Dela Cruz, Vice Chair

Wednesday, March 1, 2017, 9:45 a.m.

State Capitol, Conference Room 211

by

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WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 249, SD 1, Relating to Retirement.

Purpose: Senate Bill No. 249, SD 1, proposes to amend the provisions of chapter 88, Hawai'i Revised Statutes, to reduce the service retirement allowance for credited service as a judge for new judicial appointments after June 30, 2017.

Judiciary's Position:

The Judiciary respectfully opposes Senate Bill No. 249, SD 1, as it creates an additional tier of pension benefits for judges by further reducing the retirement allowance for the second time in five years (the retirement allowance was reduced from 3.5% to 3.0% under Act 163, Sessions Laws of Hawaii 2011, for judges appointed after June 30, 2012; this bill proposes another reduction from 3.0% to 2.0% for new judicial appointments after June 30, 2017).

We appreciate the Senate Judiciary and Labor Committee's amendment to Senate Bill No. 249 whereby the more stringent years of service, i.e., increasing eligibility years of service, was deleted. However, we would like to comment on the proposal to reduce the retirement allowance from 3.0% to 2.0%.

Unlike Act 163, which created a new benefit structure and impacted all new members with ERS membership status after June 30, 2012, Senate Bill No. 249, SD 1, impacts only judges.



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If contributory plan members with ERS membership status before July 1, 2012, choose not to become judges after June 30, 2017, i.e., stay in the contributory plan as a general employee, they would already earn the same 2.0% retirement allowance but with less stringent vesting requirements of age 55 with 5 years of service. The proposed 2.0% retirement allowance for judges appointed after June 30, 2017, along with the more stringent vesting requirements of age 60 with 10 years of service comparatively diminishes the attractiveness of a judgeship. Although the proposed amendment affects only one small category of public employees, the impact is significant to existing ERS members who may consider seeking a judgeship, such as prosecutors, public defenders, deputy attorney generals, and elected officials.

Senate Bill No. 249, SD 1, also impacts new ERS members upon appointment as judges after June 30, 2017. New ERS members who are appointed judges after June 30, 2017 will be subject to the retirement allowance of 2.0%, rather than the current 3.0%.

The Judiciary notes that previous Commissions on Salaries, established under the Hawai'i Constitution, considered judicial retirement benefits and the mandatory retirement age of 70 in its determination of judicial salaries. The next Commission on Salaries will convene in 2018 and we anticipate the Commission on Salaries will again review and take into consideration retirement benefits of judges.

To attract the most qualified attorneys to commit to the bench, a highly attractive compensation package, including retirement and health benefits, must be offered. Many experienced attorneys who leave a law practice for public service on the bench generally do not plan to return to the practice of law. Moreover, judges are subject to mandatory retirement at age 70.

Maintaining an equitable retirement package for judges as compared to other contributory plan members is reasonable and necessary to attract experienced public and private sector attorneys to serve as judges.

For these reasons, the Judiciary respectfully opposes Senate Bill No. 249, SD 1.

Thank you for the opportunity to provide testimony on Senate Bill No. 249, SD 1.