



*The Judiciary, State of Hawai'i*

**Testimony to the House Committee on Labor and Public Employment**

Representative Aaron Ling Johanson, Chair

Representative Stacelynn Eli, Vice Chair

Tuesday, February 5, 2019, 9:30 a.m.

State Capitol, Conference Room 309

**WRITTEN TESTIMONY ONLY**

by

Rodney A. Maile

Administrative Director of the Courts

---

**Bill No. and Title:** House Bill No. 1260, Relating to Employees' Retirement System.

**Purpose:** House Bill No. 1260 proposes to reduce, for members who join the Employees' Retirement System after June 30, 2019, and have credited service as a judge, the retirement allowance for each year of credited service as a judge from 3% to 2 1/4% of the member's average final compensation.

**Judiciary's Position:**

The Judiciary respectfully opposes House Bill No. 1260.

This bill proposes, for the second time in seven years, a reduction of pension benefits for judges—specifically the retirement allowance. (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 2.25% for judicial appointments after June 30, 2019.)

Unlike Act 163, which created a new benefit structure and impacted all new members with Employees Retirement System (ERS) membership status after June 30, 2012, House Bill 1260 would impact only judges. The Judiciary is unaware of a measure singling out another category of employees for a reduction of this nature and significant magnitude.

It does not appear that this measure will have any significant impact on reducing the State's future obligations for decades. In testimony on a similar bill to reduce retirement benefits for judges alone, SB249 (2017), before the Senate Committee on Judiciary and Labor, the Employees' Retirement System stated: "Creating this new 'tier' of benefits and requirements for a relatively small segment of the total ERS membership will require computer and administrative modifications and counseling resource costs which, from a business perspective, the ERS believes may be disproportionate to the small number of members affected by this legislation." ERS explained this statement in response to questioning before the House Finance Committee.

At the 1978 Constitutional Convention, the Judiciary Committee declared that "[t]he public should not be deprived of having the most qualified candidate for judicial appointment." The proposed diminishment of retirement benefits could lessen the likelihood that the most qualified would apply, and in turn could deprive our community of the opportunity to have the most qualified serve as judges.

Maintaining a competitive retirement package for judges is reasonable and necessary to attract experienced public and private sector attorneys to serve as judges. Many experienced attorneys who might apply for judgeships seriously consider that as a judge they would be statutorily precluded from using their legal training to supplement their income, i.e., they must leave their prominent law practices, and that they would be subject to mandatory retirement from the bench at age 70.

If contributory plan members with ERS membership status before July 1, 2012 choose not to become judges after the determined cutoff date, i.e., they choose to stay in the contributory plan as general employees, they would already earn nearly the same 2.0% retirement allowance and have less stringent vesting requirements of age 55 with 5 years of service. The proposed 2.25% retirement allowance for judges appointed after June 30, 2019 comparatively diminishes the attractiveness of a judgeship. The impact is significant to existing ERS members who may consider seeking a judgeship, such as prosecutors, public defenders, deputy attorneys general, and elected officials.

The Judiciary respectfully opposes House Bill 1260. Thank you for the opportunity to provide testimony on this measure.