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FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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BOARD OF TRUSTEES OF THE  
EMPLOYEES' RETIREMENT SYSTEM  
OF THE STATE OF HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

BOARD OF TRUSTEES OF THE  
EMPLOYEES' RETIREMENT SYSTEM  
OF THE STATE OF HAWAII,

Plaintiff,

vs.

STATE OF HAWAI'I; HAWAII HEALTH  
SYSTEMS CORPORATION; and DOES 1 -  
100,

Defendants.

Civil No. 16-1-1543-8 (JHC)  
(Declaratory Judgment)

STIPULATION AND ORDER FOR  
PRELIMINARY INJUNCTION

No Trial Date Set

Judge: Jeannette H. Castagnetti

STIPULATION AND ORDER FOR PRELIMINARY INJUNCTION

Plaintiff BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (“**Plaintiff**” or “**ERS**”) and Defendants STATE OF HAWAII (“**State**”), and HAWAII HEALTH SYSTEMS CORPORATION (“**HHSC**”), by and through their respective attorneys undersigned, hereby stipulate and agree as follows:

WHEREAS, on August 16, 2016, Plaintiff filed a Motion for Temporary Restraining Order (“**Motion for TRO**”), which sought a temporary restraining order staying the implementation of 2016 Hawai‘i laws 2<sup>nd</sup> Sp. Sess. Act 1 (S.B. 2077) (hereafter “**Act 1**”);

WHEREAS, on August 18, 2016 the State filed its Memorandum in Opposition to Plaintiff’s Motion for TRO;

WHEREAS, on August 22, 2016 HHSC filed a substantive joinder in the State’s Memorandum in Opposition to the Plaintiff’s Motion for TRO;

WHEREAS, on August 22, 2016, the matter came on for hearing and this Court granted Plaintiff’s Motion for TRO;

WHEREAS, on August 23, 2016 the Court issued its order granting the Motion for TRO (“**TRO**”

WHEREAS, the TRO stayed the implementation of Act 1 until this Court rules on the ERS’s Motion for Preliminary Injunction (“**Motion for PI**”);

WHEREAS, the TRO also ordered that the ERS submit “its written request to the IRS on or before August 31, 2016.”;

WHEREAS, on August 22, 2016, Plaintiff filed the Motion for PI, which seeks a preliminary injunction staying the implementation of Act 1 until the IRS has issued a written determination responding to the request for private letter ruling submitted by the ERS to the IRS;

WHEREAS, on August 26, 2016, Plaintiff submitted its private letter ruling request to the IRS, which asked the following questions:

1. Does Act 1 create a “cash or deferred arrangement?”
2. If Act I creates a “cash or deferred arrangement,” would this be a tax qualification failure for the Retirement System under Section 401 (a) of the Internal Revenue Code?
3. If this would be a tax-qualification failure for the Retirement System under Section 401(a) of the Internal Revenue Code, what would be the federal tax consequences to the Retirement System and its members and beneficiaries?

WHEREAS, Plaintiff has also requested that the IRS provide its response on an expedited basis;

WHEREAS, the State and HHSC have an interest in learning the response of the IRS to the request for private letter ruling submitted by Plaintiff;

WHEREAS, Plaintiff's Motion for PI is scheduled to be heard on September 29, 2016 at 1:30 p.m.;

WHEREAS, the State and HHSC continue to reserve their rights to oppose and contest any injunctive relief, as well as oppose and contest any attempt to challenge the legality of Act 1, but are willing to enter into this Stipulation and Order in the interest of conserving judicial resources pending the response of the IRS to the request for private letter ruling submitted by Plaintiff; and

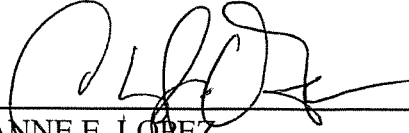
WHEREAS, all parties are in agreement that Act 1 should be stayed until the IRS has issued its response to the request for private letter ruling submitted by Plaintiff and the Court has had an opportunity to consider the effect and consequences of any such ruling;

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED that a preliminary injunction is hereby issued which stays the implementation of Act 1 until after the IRS has issued its response to the private letter ruling submitted by Plaintiff and the Court has had an opportunity to consider the effect and consequences of any such ruling. Additionally, any further proceedings in this case are also stayed, pending the response of the IRS, or until the Court rules upon any motion made for further proceedings in this case. Within ten (10) days of the receipt of the response from the IRS responding to the private letter request, Plaintiff will provide written notice to all parties and will schedule a status conference with this Court. At that status conference, the parties may submit to the Court their respective positions as to additional proceedings in this matter. The preliminary injunction will remain in effect until this Court issues an order removing the injunction.

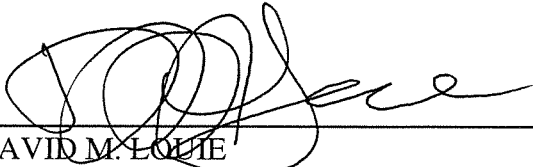
DATED Honolulu, HI, September 27, 2016.



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STATE OF HAWAII



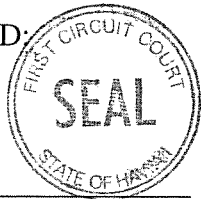
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EMPLOYEES' RETIREMENT SYSTEM OF  
THE STATE OF HAWAII

APPROVED AND SO ORDERED

JEANNETTE H. CASTAGNETTI



SEP 27 2016

JUDGE OF THE ABOVE-ENTITLED COURT

Board of Trustees of the Employees' Retirement System of the State of Hawaii v. State of Hawaii, et al.; civil no. 16-1-1543-8 (JHC); Stipulation and Order For Preliminary Injunction.