

MINUTES OF THE MEETING OF THE
LEGISLATIVE COMMITTEE OF THE
BOARD OF TRUSTEES OF THE
EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII

APRIL 30, 2020

CITY FINANCIAL TOWER
201 MERCHANT STREET, SUITE 1200
HONOLULU, HAWAII 96813

Trustees present: Dr. Catherine Chan, Chair
(by teleconference) Mr. Bennett Yap, Vice Chair
Mr. Craig Hirai

Trustee present: Mr. Emmit Kane
(by telephone)

Staff present: Mr. Thomas Williams, Executive Director
(City Financial Tower Ms. Donna Curry, Program Specialist
by teleconference) Ms. Shanna Sakagawa, Program Specialist
Ms. Dale Kehau Kanae, Recording Secretary
Ms. Lori Kim, Secretary

Staff present: Ms. Kanoe Margol, Deputy Executive Director
(by teleconference) Ms. Elizabeth Burton, Chief Investment Officer

Attorney present: Mr. Ivan Torigoe, Deputy Attorney General
(by teleconference)

QUORUM/CALL TO ORDER

A quorum being present (Chair Chan, Trustees Hirai, and Yap), Chair Chan called the meeting of the Legislative Committee (Committee) of the Board of Trustees (Board) of the Employees' Retirement System of the State of Hawaii (ERS) to order at 2:02 p.m.

On a motion made by Trustee Yap, seconded by Chair Chan, and unanimously carried, to be able to hold a meeting closed to the public and allow Trustees to participate by teleconference or other remote meeting technology, pursuant to Section 4 of the Governor of the State of Hawaii's Supplementary Proclamation dated March 16, 2020, in order to implement social distancing measures.

PUBLIC COMMENT

Chair Chan called for public comment. There were no members of the public present, therefore no public comments. There was also no public testimony received by e-mail for this Committee meeting.

For the record, a request by Honolulu Civil Beat was received to participate in the meeting, however, they were notified that we do not, as yet, have the technical ability in place for livestreaming our meeting or for the public to listen in. We did, however, offer submittal of written testimony on any agenda items.

(Trustee Kane entered the meeting by telephone at 2:07 p.m.)

ELECT LEGISLATIVE
COMMITTEE VICE CHAIR

Chair Chan asked for nominations for Vice Chair of the Committee. Trustee Yap nominated Trustee Hirai, who declined. Trustee Yap agreed to nominate himself and Trustee Kane seconded the nomination.

ELECT LEGISLATIVE
COMMITTEE VICE CHAIR
(CONT'D)

On a motion made by Trustee Yap, seconded by Trustee Kane, and unanimously carried, Trustee Yap was elected Vice Chair of the Legislative Committee.

For the record, there was no Vice Chair of the previous Committee, formerly the Administrative and Legislative Committee

POTENTIAL LEGISLATIVE
PROPOSALS RELATING TO
THE EMPLOYEES'
RETIREMENT SYSTEM FOR
THE 2020 LEGISLATIVE
SESSION FOR
RECOMMENDATION TO THE
BOARD OF TRUSTEES ON
PRIORITIZED LEGISLATION
SHOULD THE CURRENT
SESSION BE RECONVENED,
AND REVIEW OF
RECOMMENDATIONS ON
PENDING LEGISLATION

Program Specialist Donna Curry, presented and discussed with the Committee the ERS and ERS-related Potential 2020 Legislative Proposals, as presented to the Board at its meeting of April 14, 2020, thereby requesting that the Committee again review their recommendations as to the positions of the proposed measures.

After discussion, the Committee proposed recommendations to the Board's positions, as noted for clarification, in Attachment A.

On a motion made by Vice Chair Yap, seconded by Chair Chan, and unanimously carried, the Committee reaffirmed the ERS and ERS-Related Bills numbered 1 through 7, with noted position changes on numbers 5 and 6 (SB 2142 SD 1 and SB2866 SD2), of "monitor" instead of "neutral" for both Bills.

Also, on a motion made by Trustee Kane, seconded by Vice Chair Yap, and unanimously carried, the Committee reaffirmed the ERS-Related Bills numbered 8 and 9 (HB 1998 HD1 and SB 2402 SD2), with noted position changes of "monitor" instead of "neutral."

The Committee Chair will present, at the next Board Meeting, the noted changes of the ERS and ERS-related Potential 2020 Legislative Proposals for Board approval.

Executive Director Williams presented potential legislative options for discussion that the Committee may want to consider for future legislation by the Board. After some discussion, the Committee decided to table any future potential legislation for consideration, until more information is available, especially given unknown circumstances resulting from COVID-19.

Deputy Attorney General, Ivan Torigoe advised and reminded the Committee that as part of its Charter, one of its authorities and responsibilities is to review and approve annually ERS' goals and objectives applicable to the legislative process.

APPROVAL OF MINUTES
- FEBRUARY 6, 2020

On a motion made by Trustee Kane, seconded by Vice Chair Yap, and unanimously carried, the Committee approved the public minutes of the February 6, 2020, meeting as presented.

ADJOURNMENT

On a motion made by Trustee Kane, seconded by Chair Chan, and unanimously carried, Chair Chan adjourned the meeting at 3:09 p.m.

REDACTED SIGNATURE

Thomas Williams
Executive Director

TW:dkik

ERS Legislation as of 04-14-2020

| | Measure # | Title | Description | Status | Position | Reason for Position |
|------------------|----------------------------|--|--|--|----------|--|
| ERS Bills | | | | | | |
| 1 | HB2312 HD1 | RELATING TO QUALIFIED DOMESTIC RELATIONS ORDERS. | Clarifies benefits to alternate payees, advisory review determinations of Hawaii domestic relations orders, and the priority of multiple orders. Effective 1/1/2050. (HD1) | S 3/3/2020: Referred to LCA, JDC/WAM. | Support | ERS Initiated, Administration Bill. H.B. 2312, H.D. 1 proposes to amend section 88-93.5, HRS, to clarify specific benefit- and processing-related details to facilitate its implementation and to provide transparency to ERS members, retirants, beneficiaries, and alternate payees regarding Hawaii Domestic Relations Orders. The ERS Board of Trustees strongly supports this proposal. |
| 2 | HB2314 HD1 | RELATING TO EMPLOYEES' RETIREMENT SYSTEM DISABILITY RETIREMENT. | Clarifies the employees' retirement system's eligibility requirement definitions for service-connected disability and accidental death benefits. Effective 1/1/2050. (HD1) | S 3/10/2020: The committee(s) on LCA deferred the measure until 03-17-20 2:45PM in conference room 224. | Support | ERS Initiated, Administration Bill. Based upon a plain reading of the legislative intent as stated in governing statutes, H.B. 2314, H.D.1 clarifies the requirements of service-connected disability retirement and accidental death benefits of the ERS by amending sections 88-21, 88-79, 88-82, 88-85.5, 88-261(a), and 88-336, HRS. As the ERS has been required by recent court rulings to award these benefits beyond the statutes' legislative intent, this clarification will help the ERS preserve these benefits and control its unfunded liability. The ERS Board of Trustees strongly supports this legislation. |
| 3 | SB2867 SD2 | RELATING TO COMPENSATION FOR THE PURPOSES OF THE EMPLOYEES' RETIREMENT SYSTEM. | Clarifies how compensation is calculated for the purposes of retirement benefits. Effective 7/1/2050. (SD2) | H 3/12/2020: Bill scheduled to be heard by LAB on Tuesday, 03-17-20 9:10AM in House conference room 309. | Support | ERS Initiated, Administration Bill. S.B. 2867, S.D.2 amends sections 88-21 and 88-21.5, HRS, to clarify the definition of "compensation" for retirement benefit computation purposes, to help ensure that retirement benefits are computed fairly and equitably for all public employees and to facilitate employer reporting of compensation on a consistent and timelier basis. It will also help ensure ERS compliance with its tax-exempt status requirements. The Board of Trustees of the ERS strongly supports this bill. |
| 4 | SB2868 SD1 | RELATING TO QUALIFIED DOMESTIC RELATIONS ORDERS. | Amendments to clarify benefits to alternate payees, advisory review determinations of Hawaii Domestic Relations Orders and the priority of multiple orders. Effective date 7/1/51. (SD1) | H 3/12/2020: Bill scheduled to be heard by LAB on Tuesday, 03-17-20 9:10AM in House conference room 309. | Support | See HB2312 above. |

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|-------------------|----------------------------|--|---|--|----------|---|
| ERS-Related Bills | | | | | | |
| 5 | SB2142 SD1 | RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM. | Allows departments more time to comply with new ERS reporting standards. Effective 7/1/2050. (SD2) | H 3/12/2020: Bill scheduled to be heard by LAB on Tuesday, 03-17-20 9:10AM in House conference room 309. | Neutral | This bill seeks to amend section 88-103.7(c), the primary intent of which was to encourage reporting compliance, not to impose a penalty of advanced payments of employer contributions, nor to impose additional interest for late payments. The ERS has been working collaboratively with employers to address the many and complex challenges attendant to employer reporting of ERS contributions. We agree with the extension the employers' evaluation period by three additional years during which each department will be required to progress toward full ERS compliance. After which, the aforementioned penalties would apply. |
| 6 | SB2866 SD2 | RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND EMPLOYEE-BENEFICIARY MONTHLY CONTRIBUTIONS. | Amends section 87A-40, Hawaii Revised Statutes, to mandate that new retired employees pay their share of health benefits premiums through monthly electronic deductions from their Employees' Retirement System pension or their financial institution. Effective 7/1/2050. (SD2) | H 3/12/2020: Bill scheduled to be heard by LAB on Tuesday, 03-17-20 9:10AM in House conference room 309. | Neutral | ERS is supportive of the intent of this bill and provides technical comments. |
| 7 | HB2485 HD1 | RELATING TO HAWAII NATIONAL GUARD RETIREMENT BENEFITS. | Requires the board of trustees of the employees' retirement system to conduct a study to determine and provide retirement benefits for Hawaii national guard members who are activated under state active duty orders, and submit findings and recommendations to the legislature prior to the regular session of 2022. Appropriates funds. Takes effect on 1/1/2050. (HD1) | S 3/3/2020: Referred to LCA/PSM, WAM. | Opposed | Although the ERS Board recognizes the supportive intent of the bill to research possible retirement programs for the national guard program, the Board must respectfully oppose the bill as its implementation would represent a benefit enhancement precluded by Act 29, SLH 2011, utilize ERS resources for other than the "exclusive benefit of its members" (an Internal Revenue Service requirement of ERS's tax exempt status), possibly extend benefits to otherwise ineligible individuals as these individuals are not employees of the State or the counties and their inclusion may adversely impact the unfunded liability of the system. |
| 8 | HB1998 HD1 | RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM. | Authorizes forfeiture of certain ERS benefits, pursuant to court order, for state or county employees and designated beneficiaries who are convicted of an employment-related felony. Takes effect on 1/1/2050. (HD1) | S 3/3/2020: Referred to LCA, JDC/WAM. | Neutral | Supportive of court-ordered decrees as the most fair and judicial application of judgments on felony decisions. |

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|---|----------------------------|---|--|--|----------|--|
| 9 | SB2402 SD2 | RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM. | Authorizes a court to order the forfeiture of Employees' Retirement System benefits of an ERS member, former member, or retirant upon conviction of the individual for a felony related to the State or county employment of the individual. Authorizes designated beneficiaries to receive ERS benefits upon the death of the ERS member, former member, or retirant convicted of the felony. (SD2) | H 3/12/2020: Bill scheduled to be heard by LAB on Tuesday, 03-17-20 9:10AM in House conference room 309. | Neutral | Supportive of court-ordered decrees as the most fair and judicial application of judgments on felony decisions. ERS provides technical comments. |