



*The Judiciary, State of Hawai'i*

**Testimony to the  
Senate Committee on Ways and Means**  
Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

Wednesday, February 24, 2016, 1:15 p.m.  
State Capitol, Room 211

By

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**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2244, SD1 - Relating to Retirement.

**Purpose:** Senate Bill No. 2244, SD1 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) reduce 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, SD1 as it: 1) continues to establish a more stringent years of service requirement 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 Hawaii 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



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after June 30, 2012, their age and service requirements increased to age 60 with 10 years of 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, SD1 will result in further expansion of this disparity by increasing the service requirement to age 60 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 60 with 12 years of service vesting requirements.

Senate Bill No. 2244, SD1 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 60 with 12 years of service. While we appreciate the changes proposed in SD1, including the reduction in age requirement from age 65 (SB2244) to age 60 (SB2244, SD1) for normal retirement, the years of service retirement requirement is still more stringent than other ERS members, contributory or hybrid, whose membership dates are on or after July 1, 2012. The normal retirement requirements are age 60 with 10 years of service for general contributory employees, judges, elected and legislative officers, police officers, fire fighters, etc. whereas this bill proposes to increase the judges' years of service requirements to 12 years instead of 10 years.

We also appreciate the language in SB2244, SD1 that preserves current ERS members' years of service prior to becoming a judge on or after July 1, 2016. However, we maintain that 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. If the same requirements were applied to another category of ERS membership, someone hired at age 59 or older would at least have the choice of working past age 70 in order to meet the 12 years of service requirement. Judges don't have that choice or option. 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.

The more stringent years of service requirement (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 may already earn a 2.0% retirement allowance.

For these reasons, the Judiciary respectfully opposes Senate Bill No. 2244, SD1.



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Thank you for the opportunity to provide testimony on Senate Bill No. 2244, SD1.