STAND. COM. REP. NO. 342

Honolulu, Hawaii

FEB 1 5 2023

RE: S.B. No. 211

S.D. 1

Honorable Ronald D. Kouchi President of the Senate Thirty-Second State Legislature Regular Session of 2023 State of Hawaii

Sir:

Your Committee on Labor and Technology, to which was referred S.B. No. 211 entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM, "

begs leave to report as follows:

The purpose and intent of this measure is to clarify that service and compensation awarded as part of an administrative, arbitral, or judicial proceeding are included in the calculation of retirement benefits and service time for the Employees' Retirement System.

Your Committee received testimony in support of this measure from the Department of Human Resources of the City and County of Honolulu; State of Hawaii Organization of Police Officers; Hawaii Fire Fighters' Association; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; Hawaii State Teachers Association; University of Hawaii Professional Assembly; United Public Workers; and one individual. Your Committee received comments on this measure from Employees' Retirement System.

Your Committee finds that this City and County of Honolulu Mayor's package measure was introduced in response to a December 17, 2021 memorandum, which indicated that judgment settlements and awards to public employees who have challenged a suspension or termination may not necessarily be eligible for Employees'

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Retirement System benefits in terms of including the employee's retroactive service as creditable service and back pay as compensation. Your Committee recognizes the complexity of the ERS and notes the concerns raised with this measure that it would have a negative impact on ERS' tax qualified status, potentially increase pension-spiking, create an administrative burden on the ERS, and increase ERS' unfunded liabilities.

Accordingly, your Committee has amended this measure by:

- (1) Updating legislative findings;
- (2) Amending language as provided by the Employees
  Retirement System to provide specific guidance for the
  clear and determinable award or awards of retroactive
  reinstatement, retroactive recission of suspension,
  retroactive pay differential, and backpay that are
  restored to an employee as part of an administrative,
  arbitral, or judicial proceeding;
- (3) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 211, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 211, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on behalf of the members of the Committee on Labor and Technology,

SHARON MORIWAKI, Chair

## The Senate Thirty-Second Legislature State of Hawaiʻi

## Record of Votes Committee on Labor and Technology LBT

Bill / Resolution No.:*	Committee Referral:			Date:		
5B211	LBT, WAM/JOC 2/10/23					
The Committee is reconsidering its previous decision on this measure.  If so, then the previous decision was to:						
The Recommendation is:						
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313						
Members		Aye	Aye (W	(R)	Nay	Excused
MORIWAKI, Sharon Y. (C)		*				
LEE, Chris (VC)		7				
IHARA, Jr., Les	==	*				
KEITH-AGARAN, Gilbert S.C.		*				
FEVELLA, Kurt					*	
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TOTAL		4			1	
Recommendation:		,	l	1	•	
Adopted Not Adopted						
Chair's or Designee's Signature:						
Distribution:         Original         Yellow         Pink         Goldenrod           File with Committee Report         Clerk's Office         Drafting Agency         Committee File Copy						

\*Only one measure per Record of Votes