
SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT AUDITS OF STATE DEPARTMENT
OPERATIONS THAT RESULT IN HIGH NON-BASE COMPENSATION OF
STATE EMPLOYEES, PAY FOR NOT WORKING, AND SALARY
OVERPAYMENTS.

1 WHEREAS, the severe funding shortfall in Hawaii's
2 retirement system for state and county employees is partially
3 attributable to various employment and management practices that
4 result in high non-base compensation of those employees; and

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6 WHEREAS, those practices include "pension spiking" - the
7 earning of substantially increased pay above base salaries and
8 wages near the end of employees' careers that deprives the
9 Employees' Retirement System of the contributions that would
10 appropriately fund the pensions; and

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12 WHEREAS, the high non-base compensation includes payment
13 for overtime, compensatory time, differentials, and other
14 supplemental pay for supervisors and managers as well as line
15 staff; and

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17 WHEREAS, while overtime may be authorized by supervisors,
18 and some state and county services must be provided on a twenty-
19 four hour basis and full shift coverage cannot be avoided,
20 pension spiking is one factor in creating an unfunded liability
21 of roughly \$8,200,000 for the Employees' Retirement System; and

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23 WHEREAS, the disproportionate contributions of "pension
24 spikers" toward their own pension is exacerbated by the larger
25 burden carried by those government entities with the smaller
26 percentage of pensioners who have not spiked their pensions and
27 has an unfavorable impact on, and unfairly burdens, those
28 employees that do not take part in "pension spiking"; and



1 WHEREAS, recent reports of state and county employees being
2 paid for extensive amounts of overtime - such as the ten
3 highest-paid emergency medical services employees in the City
4 and County of Honolulu more than doubling their annual average
5 base salary of \$63,252 to an average of nearly \$140,000 - have
6 demonstrated the seriousness of the pension spiking problem; and
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8 WHEREAS, in addition, the state Department of Public Safety
9 has reported that seventy-five employees in fiscal year 2009 and
10 twenty-five employees in fiscal year 2010 worked more than one
11 thousand hours of overtime, the equivalent of one hundred
12 twenty-five eight-hour work days in a year, raising questions of
13 how employees could sustain optimum performance, how these
14 practices take place, and who participates; and
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16 WHEREAS, these and other questionable personnel practices
17 impact not only the Employees' Retirement System, but have a
18 broader fiscal impact; and
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20 WHEREAS, a recent investigation revealed that the State has
21 overpaid its employees more than \$2,000,000, with hundreds of
22 thousands more in state tax dollars written off as uncollectable
23 and other incorrect pay amounts recovered months or years later
24 from employees who were mistakenly paid too much; and
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26 WHEREAS, as of December 31, 2011, the overpaid wage balance
27 owed to the State by its employees was more than \$1,587,393,
28 with some of these payments dating back to 1994; and
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30 WHEREAS, the problem has persisted for so long that many
31 state employees have retired or died while still owing the State
32 thousands of dollars that they were overpaid in error; and
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34 WHEREAS, as a result of the release of this and other
35 information, legislators have received numerous constituent
36 communications reporting government employee practices such as
37 suspected abuse of sick leave; failure to report to work for
38 prolonged periods of time, which has not resulted in denial of
39 holiday pay, but in fact resulted in credit for vacation and
40 sick leave as well; the manual nature of record keeping of
41 government employees' presence or absence from work; the
42 vandalizing of a prior attempt by one state department to
43 automate employee record keeping; and other practices that
44 strain credulity and have led to growing public outrage; and



1 WHEREAS, some of these public employee practices have been
2 cited by directors and other top level managers as negotiated
3 through the collective bargaining process and, therefore, have
4 been treated as acceptable employee compensation practices; and
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6 WHEREAS, while the focus of the investigative reporting has
7 been on a limited number of government agencies, there is a
8 strong possibility that similar practices are occurring
9 throughout state and county government; and
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11 WHEREAS, further information is needed to accurately assess
12 the cost to taxpayers, the short- and long-term impact on the
13 Employees' Retirement System, and how to address the problems;
14 now, therefore,
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16 BE IT RESOLVED by the Senate of the Twenty-sixth
17 Legislature of the State of Hawaii, Regular Session of 2012, the
18 House of Representatives concurring, that the Auditor is
19 requested to conduct audits of state department operations that
20 result in high non-base compensation, pay for not working, and
21 salary overpayments, including:
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- 23 (1) A review of the use of overtime pay, and any abuse of
24 sick leave and other forms of compensation such as
25 compensatory time, which may contribute to increased
26 non-base compensation for employees, and the impact of
27 the use of such non-base compensation on pension
28 payments;
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- 30 (2) A description of any specific instances of "pension
31 spiking";
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- 33 (3) An identification of any patterns of abuse of non-base
34 compensation by employees or their supervisors;
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- 36 (4) An identification of such practices as failure to
37 report to work nevertheless resulting in current
38 compensation and leave credits and in future favorable
39 impact on pensions for the individuals involved;
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- 41 (5) The full extent of overpayments to state employees,
42 the total amount repaid, amounts still eligible for
43 repayment, and amounts deemed uncollectable, by
44 department;

- 1 (6) A review of efforts being made to resolve salary
2 overpayments;
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- 4 (7) Efforts by the State to resolve the overpayments
5 through timely and aggressive collections;
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- 7 (8) A review of state agencies' personnel policies
8 regarding overtime, sick leave, leave without pay, and
9 other forms of compensation;
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- 11 (9) A review of collective bargaining agreements that
12 address pay for not working; and
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- 14 (10) Recommendations as appropriate; and
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16 BE IT FURTHER RESOLVED that in conducting the audits, the
17 Auditor may focus the initial efforts on those departments that
18 have been identified as paying substantial non-base compensation
19 to employees; have employees in bargaining units with collective
20 bargaining contracts that enable such payments to occur; or have
21 demonstrated contract management practices resulting in a
22 pattern of overpayment of employees; and
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24 BE IT FURTHER RESOLVED that the Auditor is requested to
25 submit its findings and recommendations to the Legislature no
26 later than twenty days prior to the convening of the Regular
27 Session of 2013; and
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29 BE IT FURTHER RESOLVED that certified copies of this
30 Concurrent Resolution be transmitted to the Governor, Auditor,
31 and Administrator of the Employees' Retirement System.

