



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Higher Education  
and  
Senate Committee on Labor, Culture and the Arts  
February 16, 2021 at 3:00 p.m.  
by  
Kalbert K. Young  
Vice President for Budget and Finance/Chief Financial Officer  
University of Hawai'i System

### SB 590 – RELATING TO THE UNIVERSITY OF HAWAII

Chairs Kim and Taniguchi, Vice Chairs Kidani and Ihara, and members of the Committees:

Thank you for the opportunity to submit testimony on SB 590. The University of Hawai'i (UH) is supportive of this measure and offers suggested revisions. This bill will expand the existing statutory authority of the UH to create an alternative retirement program separate from the State Employees' Retirement System (ERS).

Section 88-8, Hawai'i Revised Statutes (HRS), already provides for the UH to establish its own retirement system for its employee members of bargaining unit 7 and those employees excluded from bargaining unit 7, provided in chapter 89, HRS. As written, this bill seeks to add bargaining unit 8 employees as well, but adds prescriptive language as to the form and organization of the new retirement plan.

First, the UH has not established its own retirement system provided under Section 88-8, HRS. As an agency of the State of Hawai'i, the employees of the UH can participate in the State of Hawai'i Deferred Compensation (457) plan. The UH offers a 403(b) plan for its employees as well. Both the 457 and the 403(b) plans are voluntary to participate, but the membership in the ERS is required of nearly all employees (not student employees, temporary hires, etc.), in part, because the UH has not created an alternative retirement system as outlined in Section 88-8, HRS.

In late-2020, the UH President requested the formation of a "blue ribbon" committee to consider ideas on how to improve fiscal balance in the UH-Mānoa athletics program. The UH President and UH-Mānoa athletics director have recently presented the committee's recommendations to the UH Board of Regents. The recommendations included a suggestion for an alternative retirement offering for coaches and assistant coaches to the ERS as a means to reduce the fringe benefit expense for pension in the athletics program. Currently, the employer (UH) must contribute the equivalent of 24% of an employee's salary to the ERS. Since most of the athletic department's operations are paid for by operating revenues of the athletic program, this expense is a significant portion of the athletics special fund operations.

Another thought to consider is that many collegiate coaches, assistant coaches, and sport-specific support staff do not stay in their positions for more than ten years – which, is the minimum vesting period required of the ERS for new employees in order to earn pension benefits in retirement. The committee recommendation was grounded in the thought that if an alternative retirement program could be offered to coaches and assistant coaches that was portable for the employee and where the employer would contribute less than what is currently required for the ERS, it could be a win-win for both the employee and the UH.

The UH supports this bill to the extent that UH is only seeking to expand the current Section 88-8, HRS, to include coaches, assistant coaches, and possibly other sport-specific athletic positions (trainers, specialists, etc.). These positions are included as part of bargaining unit 8. In reviewing the existing statute and SB 590 with the ERS, I am acknowledging that the ERS may identify legal- and tax-related issues with the way the bill contemplates an employee's membership in either plan, opt-in or opt-out features, and sensitivity to the financial viability of the ERS should there be a large exodus of members. The UH defers to the ERS on how best to construct the statute that would preserve the ability to establish a UH retirement plan without jeopardizing the ERS.

Section 88-8, HRS, and SB 590 may also not be sufficiently drafted to accommodate health insurance retirement benefits of the Employer-Union Trust Fund (EUTF) under Section 87, HRS. In particular, Section 87A-21(b), HRS, provides that “a retired member of the employees’ retirement system; a county pension system; or a police firefighters, and bandsmen pension system of the State or county, shall be eligible to qualify as an employee beneficiary...” As such, the only retired employees that are eligible to enroll as employee-beneficiaries in EUTF's plans are a retired member of the ERS; a county pension system; or a police, firefighters, and bandsmen pension system of the State or county. There is no reference to the optional retirement system of the UH provided in the (current) Section 88-8, HRS. Therefore, employees who retire under this plan may not be eligible to participate in any of the EUTF plans. This aspect would require additional legal consult and review.

The UH recommends that the committee should also consider amending the bill to utilize existing alternative surrogate retirement plans already offered by State or university employment rather than prescribing details and parameters of a new plan described in paragraph (g). I am recommending that the bill be amended to incorporate the State of Hawai'i Deferred Compensation (457) plan and/or the UH 403(b) plans as permitted alternatives. Attached are suggested revisions to SB 590.

Thank you for the opportunity to submit testimony on this measure.

Attachment

UH Testimony Attachment  
SB 590 Suggested Language

1 SECTION 1. Section 88-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§88-8 University of Hawaii optional retirement system.**

4 (a) Notwithstanding any other law to the contrary, the board of  
5 regents may establish without regard to the public notice or  
6 public hearing requirements of chapter 91, a retirement system  
7 separate from the state employees' retirement system to provide  
8 retirement allowances and other benefits for University of  
9 Hawaii employees who are:

- 10 (1) Members of bargaining unit (7); [~~or~~]  
11 (2) Other employees of the University of Hawaii or the  
12 community college system who are excluded from  
13 bargaining unit (7) pursuant to chapter 89[~~7~~]; or  
14 (3) Athletic coaches and assistant coaches employed by the  
15 University of Hawaii, who are included as bargaining  
16 unit (8) pursuant to chapter 89, and hired on or after  
17 July 1, 2021.

18 (b) The general administration and the responsibility for  
19 the proper operation of the optional retirement system of the  
20 University of Hawaii shall be vested in the board of regents.  
21 The board of regents may manage the optional retirement system  
22 within the University of Hawaii or contract for the management

1 of the optional retirement system. In fulfillment of its  
2 general administrative responsibilities in establishing an  
3 optional retirement plan, the board of regents may utilize the  
4 following:

5 (1) The state of Hawaii deferred compensation (457) plan;

6 (2) The funds and plans offered as part of the University  
7 of Hawaii's 403(b) program;

8 (3) Any additional companies or plan providers to provide  
9 annuity contracts, mutual fund accounts, or similar  
10 investment products.

11 (c) The board of regents may establish vesting periods for  
12 the members of the optional retirement system of the University  
13 of Hawaii that are different from those established in this  
14 chapter.

15 (d) The board of regents may establish retirement  
16 allowances and other benefits for the optional retirement system  
17 of the University of Hawaii.

18 (e) The employer's share of the cost of the optional  
19 retirement plan of the optional retirement system of the  
20 University of Hawaii shall not exceed the equivalent amount for  
21 any other group covered by this chapter.

1 (f) Any member of the state employees' retirement system  
2 when the optional retirement system of the University of Hawaii  
3 is established who is also:

4 (1) A member of bargaining unit (7); [~~or~~]

5 (2) Other employees of the University of Hawaii or the  
6 community college system who are excluded from  
7 bargaining unit (7) pursuant to chapter 89[~~7~~]; or

8 (3) Whose eligibility in the optional retirement system of  
9 the University of Hawaii has been authorized and  
10 prescribed by the rules of the board of regents,

11 shall remain a member of the state employees' retirement system  
12 unless the person elects in writing on a form prescribed by the  
13 board of regents to terminate the person's membership. The form  
14 shall be submitted to the state employees' retirement system no  
15 later than ninety days after the establishment of the optional  
16 retirement system of the University of Hawaii.

17 (g) Any person hired after the establishment of the  
18 optional retirement system of the University of Hawaii who is:

19 (1) A member of bargaining unit (7); [~~or~~]

20 (2) Other employees of the University of Hawaii or the  
21 community college system who are excluded from  
22 bargaining unit (7) pursuant to chapter 89[~~7~~]; or

1       (3) and, whose eligibility in the optional retirement  
2       system of the University of Hawaii has been authorized  
3       and prescribed by the rules of the board of regents,  
4 shall elect to be a member of the state employees' retirement  
5 system or the optional retirement system of the University of  
6 Hawaii. Upon an election the person may not transfer from one  
7 system to the other.

8       (h) Notwithstanding any other law to the contrary,  
9 retirement benefits for the optional retirement system of the  
10 University of Hawaii shall be a subject of collective bargaining  
11 negotiations for bargaining unit (7)."