

ANNE E. LOPEZ 7609
Attorney General of the State of Hawai'i

LAUREN K. CHUN 10196
Deputy Solicitor General
Department of the Attorney General
425 Queen Street
Honolulu, Hawai'i 96813
Tel: (808) 586-1360
Fax: (808) 586-8116
E-mail: lauren.k.chun@hawaii.gov

Electronically Filed
FIRST CIRCUIT
1CCV-25-0001456
30-JAN-2026
04:29 PM
Dkt. 45 MER

Attorneys for Defendant STATE OF HAWAI'I

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HAWAII,

Plaintiff,

v.

STATE OF HAWAI'I,

Defendant.

Civil No. 1CCV-25-0001456
(Declaratory Judgment)

STATE OF HAWAII'S REPLY
MEMORANDUM IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT
FILED OCTOBER 7, 2025 [DKT. 17];
DECLARATION OF LAUREN K. CHUN;
EXHIBIT "15"; CERTIFICATE OF
SERVICE

Hearing:

Judge: Hon. Jordon J. Kimura
Date: February 4, 2026
Time: 10:30 A.M.

Trial Date: None

TABLE OF CONTENTS

A. Binding Hawai‘i Precedent Provides the Test For A Constitutional Bill Title..... 1

B. The Title of S.B. 935 is Constitutional. 4

C. Haw. Const. Art. III, § 12 Was Not Violated..... 7

D. Count II Is Barred by the Political Question Doctrine..... 8

E. Plaintiff Cannot Prove Beyond A Reasonable Doubt That S.B. 935 Was Not
A “Bill.” 10

F. Conclusion. 10

**REPLY MEMORANDUM IN SUPPORT OF STATE OF HAWAII'S
MOTION FOR SUMMARY JUDGMENT FILED OCTOBER 7, 2025 [DKT. 17]**

As the party challenging the constitutionality of S.B. 935, Plaintiff bears the incredibly heavy burden of proving that its passage “plain[ly], clear[ly], manifest[ly], and unmistakabl[y]” violated the Hawai‘i Constitution “beyond a reasonable doubt.” *State v. Calaycay*, 145 Hawai‘i 186, 197, 449 P.3d 1184, 1195 (2019); *League of Women Voters of Honolulu v. State*, 150 Hawai‘i 182, 194, 499 P.3d 382, 394 (2021) (quoting *Schwab v. Ariyoshi*, 58 Haw. 25, 31, 564 P.2d 135, 139 (1977)). Summary judgment should be granted to the State because the undisputed facts demonstrate that Plaintiff cannot meet this burden.

A. Binding Hawai‘i Precedent Provides the Test For A Constitutional Bill Title.

Plaintiff’s argument regarding the standard for the sufficiency of a bill title ignores binding Hawai‘i precedent. First, the rule that a title is sufficient when it “fairly indicates to the ordinary mind the general subject of the act,” and “is not calculated to mislead” cannot be divorced from Hawai‘i case law making it clear that “[i]f no portion of the bill is foreign to the subject of that legislation as indicated by the title, **however general the latter may be**, it is in harmony with the constitutional mandate.” *Schwab*, 58 Haw. at 35, 564 P.2d at 141 (citation omitted; emphasis added).¹ These are not different tests – they are two sides of the same coin. As stated in *Schnack*:

It is well settled that it is sufficient if the title of a statute or an ordinance fairly indicates to the ordinary mind the general subject of the act, is comprehensive enough to reasonably cover all its provisions, and is not calculated to mislead. Cognate subjects are not different subjects within the meaning of the rule, but an act which contains provisions neither expressed in or suggested by the title, nor germane or cognate to the subject expressed therein is, to that extent, vulnerable to objection. **The language of the title is to be given a liberal interpretation, and the largest scope accorded to the words employed that reason will permit in order to bring within the purview of the title all the provisions of the act.**

. . . . **If no portion of the bill is foreign to the subject of the legislation as indicated by the title, *however general the latter may be*, it is in harmony with the constitutional mandate.**

¹ Contrary to Plaintiff’s characterization, and as discussed further below, the issue in *Schwab* was not merely whether the challenged act covered multiple subjects, but also whether the actual provisions of the act were sufficiently expressed in the title. 58 Haw. at 30, 564 P.2d at 139. The title was upheld as sufficient because “[a]ll parts of the act embrace one general subject, to wit: salaries; and these parts are so connected and related to each other, either logically or in popular understanding, as to be parts of or germane to that general subject.” *Id.* at 32-33, 564 P.2d at 140.

Schnack v. City & Cnty. of Honolulu, 41 Haw. 219, 223–24 (Haw. Terr. 1955) (cleaned up; emphases added). The Court in *Dondero* also made clear that a title is not “mislead[ing]” or “dece[ptive]” if it is germane to the controlling subject of the ordinance:

It may be stated as a general proposition that the expression of subject in the title of an ordinance is sufficient if it calls attention to the general subject of the legislation. **It is not necessary that the title refer to details within the general subject, nor those which may be reasonably considered as appropriately incident thereto, and the title is sufficient if it is germane to the one controlling subject of the ordinance.** The crucial test of sufficiency of title is generally found in the answer to the question: Does the title tend to mislead or deceive the people or the municipal board as to the purpose or effect of the legislation, or to conceal or obscure the same?

Territory v. Dondero, 21 Haw. 19, 25–26 (1912) (cleaned up; emphasis added). Thus, “**the generality of the title is not an objection**, so long as it is not made to cover legislation incongruous in itself.” *Id.* at 26 (internal quotation marks and citation omitted; emphases added).

Second, the standard is the same regardless of whether the allegation is that a bill contains more than one subject or that its title does not sufficiently express its subject. The Court in *In re Goddard* specifically addressed how “particular[.]” a title needs to be to “comply with the requirement that the subject be expressed in the title.” 35 Haw. 203, 207 (Haw. Terr. 1939).

It is more difficult to state in general terms the particularity required in stating the subject of an Act in its title. **It may be said, however, that the general purpose of the provision is accomplished when a law has one general subject or object which is fairly indicated in its title.** To require every end and means necessary or convenient for the accomplishment of the general purpose of the Act to be provided for by a separate Act relating to that alone would not only be unreasonable but would actually render legislation impossible. **The generality of a title is therefore no objection to it so long as it is not made a cover to legislation incongruous in itself and which by no fair intendment can be considered as having a necessary or proper connection with the subject.** A title does not contain more than one subject if all of its details relate to the same subject but the title must be such as to reasonably apprise the public of the interests that are or may be affected by the statute.

Id. (emphasis added). As discussed in the State’s Opposition [Dkt. 39 (“State’s Opp.”) at 8], the plaintiffs in *Schnack* argued that a title “providing for the costs” of improvements in an improvement district was “vague,” “does not put an ordinary person on notice that a special tax or exaction is thereby imposed,” and would not “imply to the ordinary mind . . . the subject of assessment[.]” *Id.* at 223. The Court applied the same test articulated above, holding:

Obviously, the title of the ordinance referred to is not the most appropriate but that is not essential if it indicates the scope and purpose of the ordinance. Neither is it necessary that the title inform the reader of the specific contents of the bill. **If no portion of the bill is foreign to the subject of the legislation as indicated by the title, however general the latter may be, it is in harmony with the constitutional mandate.**

Id. at 224 (emphasis added).

The parties in *Dondero*, *Schwab*, and *Gallas v. Sanchez* also argued that titles were not sufficient to put the public on notice as to their contents. *Dondero*, 21 Haw. at 25 (appellant “also contends that, even though the title expresses a single subject, many of the sections in the ordinance . . . go beyond the scope of the title[.]”); *Schwab*, 58 Haw. at 30, 564 P.2d at 139; *Gallas v. Sanchez*, 48 Haw. 370, 376, 405 P.2d 772, 776 (1965)).² The Court in each case applied the same test articulated above, that a title is sufficient if all provisions of the bill fall within the scope of the single subject expressed in the title. *Dondero*, 21 Haw. at 29-30; *Schwab*, 58 Haw. at 34-35, 564 P.2d at 141; *Gallas*, 48 Haw. at 376, 405 P.2d at 776 (citing *Goddard*, 35 Haw. 203). The Court in *Schwab* stated explicitly: “The test used to construe a provision similar to Article III, Section [14] of the Constitution, that is, that each law contain a single subject **and that the subject be expressed in its title**, was set forth in *Territory v. Dondero*, 21 Haw. 19 (1912).” 58 Haw. at 33, 564 P.2d at 140 (emphasis added).³

Third, while a bill title should “fairly indicate[] to the ordinary mind the **general subject** of the act,” (*Schwab*, 58 Haw. at 34, 564 P.2d at 141 (emphasis added)), “[t]he term ‘subject,’ as used in the constitution **is to be given a broad and extended meaning**, so as to allow the legislature full scope to include in one act all matters having a logical or natural connection.” *Id.* at 33, 564 P.2d at 140 (emphasis added). And “[i]t is a well established rule that the title of an act, under the constitutional requirement aforesaid, **may be broader than the act without violating**

² It is unclear why Plaintiff believes *Gallas v. Sanchez* supports its contention that an overly broad bill title violates Hawai‘i law when the Court in *Gallas* summarily upheld the allegedly overbroad title, holding that while the title “[relating to public service] does not refer with particularity to the amendments included herein, it clearly refers to the general subject matter of such amendments, the chapters of the Revised Laws amended is not misleading and does not embrace more than one subject.” 48 Haw. at 376, 405 P.2d at 776.

³ *Taomae v. Lingle*, 108 Hawai‘i 245, 118 P.3d 1188 (2005), cited by Plaintiff, specifically discusses what must be stated in a title for bill *to amend* the constitution, since such bills are subject not only to art. III, § 14, but also to art. XVII, § 3, which requires that the legislature “propose” a constitutional amendment. *Id.* at 251-52, 118 P.3d at 1194-95.

such constitutional requirement.” *Territory v. Kua*, 22 Haw. 307, 309 (1914) (emphasis added). Nor is the public deceived merely because the title does “not spell[] out the details” of the bill (*Schnack*, 41 Haw. at 225) or because the title “[c]ould have been clearer and more precise[.]” *Schwab*, 58 Haw. at 25. “A title may be sufficient if its language covers an act’s provisions **in any sense or meaning**, even where the sense or meaning is neither obvious nor common.” 1A Sutherland Statutory Construction § 18:8 (8th ed.) (emphasis added; footnotes omitted). Plaintiff’s own authorities confirm that a title is sufficient if it fairly indicates the act’s *general subject*. Pl’s Opp. at 7. Thus, as long as all the provisions in a bill fall under a general, unifying subject (which is to be broadly construed), and that subject is fairly indicated by the title, it is sufficient.

Plaintiff asks this Court to apply a standard different than what has been adopted and relied on by Hawai‘i courts – and the Hawai‘i Legislature – for over a century. That effort should be rejected.

B. The Title of S.B. 935 is Constitutional.

As discussed in the State’s Motion [Dkt. 17 (“State’s Mtn.”) at 8] and Opp. at 8-9, S.B. 935’s title “indicates to the ordinary mind the general subject of the act, is comprehensive enough to reasonably cover all its provisions, and is not calculated to mislead[.]” *Schwab*, 58 Haw. at 34, 564 P.2d at 141 (quoting *Dondero*, 21 Haw. at 29).

To conform with the requirement that legislative acts should not be held void “except in a clear case,” the term “subject” “is to be given a broad and extended meaning[.]” *Schwab*, 58 Haw. at 33-34, 564 P.2d at 140-41. Under this construction, it cannot be said beyond a reasonable doubt that S.B. 935’s title fails to “indicate[] to the ordinary mind the **general subject** of the act[.]” *Id.* The general subject of S.B. 935 is government employment benefits, or government retirement benefits. The overarching subject of “government” is broader than the specific provisions of the bill, but it is sufficient to put anyone interested in government retirement benefits to inquire further into the bill’s details. The fact that significant testimony on S.B. 935 was submitted is evidence of the fact that interested parties clearly did inquire into its contents.⁴⁵

⁴ The written testimony submitted regarding S.B. 935, S.D. 2, H.D. 1 in particular is attached hereto as Exhibit “15”. The Court may take judicial notice of all testimony under HRE 201.

⁵ The fact that a variety of titles have been used for bills relating to the same subject not only demonstrates that many possible titles can sufficiently put the public on notice of a certain subject, but also that it would be unreasonable for the public to expect that a future title relating to the same subject would necessarily be the same or similar to past bill titles.

Nor did S.B. 935’s title conceal or obscure its purpose or effect. As discussed in the State’s Opp. at 8, Plaintiff makes the same argument that was rejected in *Schnack*, where the Court held that even though the term “providing for costs” in a title could refer to a number of ways to raise funds, an ordinary mind should know that one method could be a special assessment. 41 Haw. at 224-25. Here, an ordinary mind should know that a bill relating to government could contain provisions relating to government retirement benefits. Unlike cases where a title would lead a reader to believe that the bill relates to something *other than* what it contains,⁶ S.B. 935 does “not deceive[] [interested parties] by not spelling out the details in the title.” *Schnack*, 41 Haw. at 225.⁷

The State has already addressed Plaintiff’s argument that “Relating to Government” is so broad as to be “meaningless” and provides fair notice of “nothing.” State’s Opp. at 8-9. No reasonable person reading the title “Relating to Government” would think that it could relate to every single possible law because all laws constitute “governance.” Not every law relates to the operation of the government or the institutions of government itself. Neither would upholding S.B. 935 in this instance mean that “Relating to Government” will always be constitutionally permissible – the question is whether the title is sufficient to describe the provisions of S.B. 935, which it is. Even the Missouri Supreme Court, whose jurisprudence Plaintiff urges this Court to adopt, held that a title “relating to local government”⁸ was not overly broad as applied to a bill that prevented counties from enacting certain public health ordinances. *Cedar Cnty. Comm’n v. Governor Michael Parson*, 661 S.W.3d 766, 770, 773 (Mo. 2023) (*en banc*). Though the interests implicated were narrower than what its broad title might indicate, the court reasoned:

[T]he question is whether this title is so broad that it fails to provide clear notice to legislators or interested citizens as to the bill’s contents. It is not.

⁶ As in, for instance, *Jensen v. Turner*, 40 Haw. at 607-08; *In re Goddard*, 35 Haw. at 209-10; or *Hyman Bros. v. Kapena*, 7 Haw. 76, 78 (Haw. Kingdom 1887). State’s Opp. at 5.

⁷ If Plaintiff’s argument that overly broad bill titles necessarily “conceal or obscure” the purpose or effect of the bill is accepted, then it is not clear what degree of specificity is necessary when Hawai’i precedent provides that only the **subject** of the bill need be stated in the title, but not its specific contents, details, or any powers to be bestowed. State’s Opp. at 4, quoting *Schwab, Dondero*, and *Jensen*. Many, if not most bill titles do not state the purpose or effect of the bill at all. See, e.g., Pl’s Opp. at 8-9 (listing example titles).

⁸ The bill’s full title was “An act to repeal [a list of statutes], and to enact in lieu thereof fifty-one new sections relating to local government, with penalty provisions and an emergency clause for certain sections.” 661 S.W.3d at 773 n. 7 (brackets omitted). But for the purposes of the argument that the title was void as overbroad, the court characterized the title as “relating to local government.” *Id.* at 773.

Suppose, for example, a legislator or citizen was interested in tracking potential legislation that might limit local government's authority to regulate [controlled animal feeding operations]. The title of HB 271 is sufficiently clear to give such a person notice that they may want to examine its contents and track its progress.

Id. While acknowledging that “a bill with a title so broad that it encompasses practically every subject on which the General Assembly might legislate” is not proper, the court also recognized that broad titles such as “general not for profit corporations,” “health services,” and “workers’ compensation” “g[i]ve sufficiently clear notice to alert a legislator or interested citizen as to the subjects that may be addressed in the bill.” *Id.* at 773-74. Here, as discussed, the title “Relating to Government” cannot be applied to every subject of possible legislation. However, it is sufficient to put anyone interested in the benefits of government employment on notice “that they may want to examine [the] contents [of S.B. 935] and track its progress. *Id.* at 773.

Plaintiff’s argument that “Relating to Government” is unconstitutional because it could apply to more than one subject must be rejected outright. Pl’s Opp. at 9-10. The single subject requirement is violated not when a title is so broad that it could conceivably cover multiple disparate subjects, but when the provisions of a bill are not sufficiently connected to each other.⁹ “The generality of a title is therefore no objection to it so long as it is not made a cover to legislation incongruous in itself[.]” *Goddard*, 35 Haw. at 207–08. Indeed, bill titles are required to be interpreted as broadly as possible, *Schwab*, 58 Haw. at 34, 564 P.2d at 141, yet Plaintiff’s argument would mean that such a reading would render all but the most specific of bill titles unconstitutional. “To require every end and means necessary or convenient for the accomplishment of the general purpose of the Act to be provided for by a separate Act relating to that alone would not only be unreasonable but would actually render legislation impossible.” *Goddard*, 35 Haw. at 207. “It does not mean by one subject-matter only such subjects as are so simple that they cannot be subdivided into topics[.]” *In re Tom Pong*, 17 Haw. 566, 573 (Haw. Terr. 1906).

Similarly, the State’s arguments do not allow logrolling. Even if the title of an act is broad

⁹ The authorities cited by Plaintiff (Pl’s Opp. at 10) similarly hold that a title violates the single-subject requirement when it expresses *more* than one subject (*Bd. Of Trs. v. N.D. Legis. Assembly*, 996 N.W.2d 873, 886 (N.D. 2023) (bill title indicated that it was “an appropriations bill with other miscellaneous provisions”) or that a bill violates the requirement if its provisions combine unrelated topics (*Johnson v. Walters*, 819 P.2d 694, 698 (1991); *Carmack v. Dir., Missouri Dept. of Agric.*, 945 S.W.2d 956, 961 (Mo. 1997); *Harbor v. Deukmejian*, 742 P.2d 1290, 1303 (Cal. 1987); *McIntire v. Forbes*, 909 P.2d 846, 857 (Or. 1996).

enough to potentially cover disparate subjects, if those subjects are not “so connected and related to each other, either logically or in popular understanding” or are “dissimilar or discordant subjects,” the bill is subject to challenge. *Schwab*, 58 Haw. at 33, 564 P.2d at 140 (emphasis added).

Plaintiff cannot prove beyond a reasonable doubt that the title of S.B. 935 failed to give sufficient notice to those who are interested in government employment benefits, did not cover all provisions within the bill, and was misleading as to its actual contents. It must be upheld.

C. Haw. Const. Art. III, § 12 Was Not Violated.

Haw. Const. Art. III, § 12 states: “By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced.” There is no dispute that the Legislature “provide[ed] a date by which all bills to be considered” in the 2025 regular session would be introduced and that S.B. 935 was introduced before that date.

Plaintiff contends that despite the plain language of the Constitution, S.B. 935’s introduction as a short-form bill violates its purpose. However, as discussed in the State’s Opp. at 10-11, the purpose of the 1984 amendments to art. III, § 12 was to remove previous time limits for the bill introduction deadline, giving the Legislature greater discretion over the selection of the date. *See also League of Women Voters of Honolulu*, 150 Hawai‘i at 211, 499 P.3d at 411 (Recktenwald, C.J., dissenting) (“This particular proposal merely permits the Legislature to establish a timetable that is appropriate to the conditions that it must deal with in its proceedings each year[.]”) (quoting 1984 Senate Journal, at 775). The framers declined to include language fixing the time by which a deadline must be set, or what requirements must be met to fulfill the deadline, leaving such details to the Legislature.

Contrary to Plaintiff’s contention, the use of short-form bills does not turn the bill introduction deadline into “mere window dressing.” Pl’s Opp. at 16. The introduction deadline limits the universe of bills that can be considered during the session. The public can be assured that if 1,000 bills are introduced by the deadline, they will have no more than that number to review. And the purpose of the bill introduction deadline is not to prevent bills from being substantially revised during the session. Indeed, non-germane amendments which “change[] the purpose of a bill so that it is no longer related to the original bill as introduced” are permitted as long as such amendments receive the requisite three readings in each house. *Id.* at 186, 499 P.3d at 386. In other words, short-form bills cannot thwart the purpose of the bill introduction deadline, when the

deadline does not prevent *any* bill from being rewritten.

The Legislature complied with Haw. Const. art. III, § 12.

D. Count II Is Barred by the Political Question Doctrine.

Plaintiff fails to rebut the State’s showing that at least four of the factors demonstrating the existence of a political question are present. If any of these factors is “inextricable from the case at bar,” Count II must be dismissed. *Nelson v. Hawaiian Homes Comm’n*, 127 Hawai‘i 194, 277 P.3d 279, 289 (2012).

The text of Haw. Const. art. III, § 12 demonstrably commits the authority “to determine the rules of its proceedings” to the Legislature. The same provision says that each house shall “provide for the date by which all bills . . . shall be introduced” “[b]y rule of its proceedings.” *Id.* Because the Constitution specifically vests each Legislative house with the authority to select its own rules, including setting the bill introduction deadline, the interpretation and enforcement of those rules is also firmly within each house’s constitutional authority. *Schwab*, 58 Haw. at 39, 564 P.2d at 144 (“[A]lleged violations of its own legislative rules remain the province of the legislature itself.”).

The bill introduction deadline is thus unlike the three-readings requirement in Haw. Const. art. III, § 15, the enforcement of which does not present a political question. In so deciding, the Hawai‘i Supreme Court held that art. III, § 15 does not “contain . . . language vesting the Legislature with the responsibility to judge its own compliance with the [three-readings] requirement[.]” *League of Women Voters*, 150 Hawai‘i at 193, 499 P.3d at 393. That is not the case here, where the constitution itself does not impose a bill introduction deadline, and textually dedicates the power to select the deadline to the Legislature via its power to make rules – rules that the Legislature, not the Courts, have authority to interpret and enforce.

Plaintiff nowhere identifies a judicially discoverable and administrable standard for what constitutes a “bill.” Its only authority is the statement in *League of Women Voters* that “[a] bill consists of the number, title, and body.” 150 Hawai‘i at 200, 499 P.3d at 400. S.B. 935 has a number, title, and body. But what Plaintiff contends is that S.B. 935 lacks “substance,” and nothing in *League of Women Voters* (or anything Plaintiff cites) provides any test to determine what level of detail provides sufficient “substance.”

In the absence of judicially discoverable standards in the Constitution for what constitutes sufficient “substance” to transform a proposal into a bill, the Court would have to craft one out of whole cloth based on its own determinations of sound legislative policy. Plaintiff misses the point

when it argues that *this* particular bill does not involve an emergency situation or an incomplete proposal. To craft a test to determine how complete *every* bill needs to be before it can be introduced, the Court would have to weigh competing policy considerations, including legislative efficiency and the need to respond to emergencies.¹⁰ However, a determination that any particular proposal is complete enough to warrant consideration by the Legislature at large is best determined by the Legislature itself – the branch with the Constitutional power to write and enact laws.

For similar reasons, adopting Plaintiff’s argument would express a profound lack of respect for the Legislature. The Constitution grants the Legislature the power to legislate, and the quintessence of legislative power is the power to enact laws. Haw. Const. art. III, § 1; *Sherman v. Sawyer*, 63 Haw. 55, 57, 621 P.2d 346, 348 (1980). Under the separation of powers, that quintessential authority should not be abrogated in the absence of a clear constitutional mandate. Plaintiff argues that Haw. Const. art. III, § 12 – a provision that explicitly gives the Legislature the authority to select its own bill introduction deadline, and does not purport to govern the content of bills at all – somehow provides the authority for courts to dictate what the Legislature must include in its bills and what proposals the Legislature can consider even if they are undisputably submitted before the deadline. This goes far beyond *League of Women Voters*, which enforced a constitutional mandate on procedure, but did not intrude into any realm over which the Legislature itself held exclusive jurisdiction. It is Plaintiff’s argument, not the State’s, that “would make it possible for a branch of government,” here, the judiciary, “substantially to enhance its power in relation to another[.]” *League of Women Voters*, 150 Hawai‘i at 193 n.15; 499 P.3d at 393 n.15.

Plaintiff’s challenge to the status of S.B. 935 as a “bill” plainly presents a political question, and is thus non-justiciable.

¹⁰ The discussion in *League of Women Voters*, 150 Hawai‘i at 205 n.35, 499 P.3d at 405 n.35 rejecting the State’s policy arguments against applying a germaneness standard to the three-readings requirement has no bearing here. In *League of Women Voters*, the germaneness standard was a judicially discoverable and applicable test that the Court found was required by constitutional history and the framers’ intent, such that the Court was only carrying out the policies already intended by the framers. *Id.* at 205, 499 P.3d at 405 (holding that the State’s policy arguments cannot “change the fact that we must construe section 15 in the manner that the framers intended[.]”) Here, there is no test for sufficient “substance” that is mandated by any constitutional history. The Court here, unlike in *League of Women Voters*, would have to make its own policy judgments as to what level of completeness or “substance” is required for every single bill.

E. Plaintiff Cannot Prove Beyond A Reasonable Doubt That S.B. 935 Was Not A “Bill.”

Even assuming that Count II is justiciable, Plaintiff has still not demonstrated that S.B. 935 was, beyond all reasonable doubt, not a “bill.” Plaintiff merely reiterates its own judgment that S.B. 935 lacked “substance.” As already discussed, *League of Women Voters*, which is the sole basis for Plaintiff’s argument, does not even put forth “substance” as part of a test for legislative sufficiency. Because sufficient “substance” is undefined by any authority, Plaintiff has nothing to demonstrate that S.B. 935 – which undisputably has a body containing text proposing to revise the Hawai‘i Revised Statutes in way which will relate to government – lacks sufficient detail.

Plaintiff further contends that a bill that, if enacted, would do nothing, cannot be a draft law. Pl’s Opp. at 20. This does not comport with the common understanding of a draft as an incomplete version of a final writing, subject to further revision. DRAFT, Black’s Law Dictionary (12th ed. 2024) (“An initial or preliminary version; a piece of writing not yet in its finished form[.]”); *Draft*, Dictionary.com; <https://www.dictionary.com/browse/draft> (last visited Jan. 29, 2026) (“a first or preliminary form of any writing subject to revision, copying, etc.”). A bill, either intentionally or not, may not be effective as written and yet still clearly be a preliminary, incomplete version of a law. Under Plaintiff’s theory, a bill that may be unconstitutional or preempted by federal law, and therefore, ineffective as written, could never be corrected by subsequent amendments because it was not a “bill” as introduced. Plaintiff’s theory is unworkable and contrary to any common understanding of a “bill” or the lawmaking process.

S.B. 935, on its face, indicates that it is an incomplete, preliminary version of a law. Plaintiff cannot possibly prove beyond a reasonable doubt that S.B. 935 is outside all common understanding of what constitutes a “bill.” Its Count II therefore fails on its merits in any event

F. Conclusion.

For the foregoing reasons, the State respectfully requests that this Court enter summary judgment in its favor

DATED: Honolulu, Hawai‘i, January 30, 2026.

/s/ Lauren K. Chun

LAUREN K CHUN

Deputy Solicitor General

Attorney for Defendant STATE OF HAWAI‘I

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HAWAI'I,

Plaintiff,

v.

STATE OF HAWAI'I,

Defendant.

Civil No. 1CCV-25-0001456
(Declaratory Judgment)

DECLARATION OF LAUREN K. CHUN

DECLARATION OF LAUREN K. CHUN

I, LAUREN K. CHUN, hereby declare as follows:

1. I am a Deputy Solicitor General for the State of Hawai'i and am counsel of record for Defendant State of Hawai'i ("State") in this matter. I am competent to testify as to the matters set forth herein.

2. All testimony submitted regarding each version of S.B. No. 935 of 2025 is available on the official website of the Hawai'i State Legislature at:
https://www.capitol.hawaii.gov/session/archives/measure_indiv_Archives.aspx?billtype=SB&billnumber=935&year=2025 under "Testimony."

3. As an example of the submitted testimony, attached hereto as Exhibit "15" is a copy of the testimony submitted regarding S.B. No. 935, S.D. 2, H.D. 1, available on the official website of the Hawai'i State Legislature at:
https://www.capitol.hawaii.gov/sessions/Session2025/Testimony/SB935_HD1_TESTIMONY_JHA_03-19-25_.PDF.

I declare, verify, certify and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawai'i, January 30, 2026.

/s/ Lauren K. Chun

LAUREN K CHUN

Deputy Solicitor General

EXHIBIT “15”



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

House Committee on Judiciary and Hawaiian Affairs

Wednesday, March 19, 2025

2:00 p.m.

State Capitol, Conference Room 325, and Videoconference

In Support

S.B. No. 935, S.D. 2, H.D. 1, Relating to Government

Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary and Hawaiian Affairs:

The Office of the Governor supports S.B. No. 935, S.D. 2, H.D. 1, Relating to Government, which reduces the minimum number of years of credited service qualified Tier 2 Employees' Retirement System (ERS) members must have to be eligible for vested benefit status for service retirement allowance purposes. The bill also increases employer contributions to offset the resulting liability from these changes.

State and county governments are feeling the impacts of reduced public employment. Continued and widespread vacancies are hampering the ability of state and county departments and agencies to provide various essential services in areas ranging from public health and transportation to correctional institutions and public education. While the service retirement allowance provided to ERS members has the potential to serve as a powerful recruitment and retention tool for Hawai'i's public sector, in today's job market of decreased job tenure, a vesting period of ten years, particularly compared to the five years of Tier 1 ERS members, no longer carries the same attractiveness as it once did, diminishing the recruitment and retention power of this retirement benefit. S.B. No. 935, S.D. 2, H.D. 1, addresses this reality, standardizing the number of years of credited service required to become eligible for vested benefit status while minimizing the financial impact to the State and counties.

Although reducing the vesting period for qualified Tier 2 ERS members will increase the ERS's unfunded actuarial accrued liability, this bill proposes a financing mechanism to offset this added liability. With no appropriation and a minimal increase of 0.19 percent to employer contributions, the additional \$9.6 million required per year to provide benefits to current and future Tier 2 members will be offset. This bill's impact to ERS's projected full funding period is also minimal compared to its potential to grow and maintain the public workforce, adding four months to the funding period while halving the vesting period required for Tier 2 members.

Testimony of the Office of the Governor
S.B. No. 935, S.D. 2, H.D. 1
March 19, 2025
Page 2

Regarding the bill's provisions amending retirement benefits for sheriffs and deputies, the Office of the Governor shares the concerns voiced in ERS's testimony and respectfully requests the committee amend the bill to address these concerns.

Staffing issues will continue to plague the provision of public services in our State if the State and counties fail to pursue more effective recruitment and retention policies. Although service retirement allowance is but one benefit an individual considers when deciding whether to pursue a career in public service, it is one that holds great recruitment and retention potential. S.B. No. 935, S.D. 2, H.D. 1, increases access to this benefit while minimizing impacts to the State and counties.

The Office of the Governor looks forward to continuing discussion on this bill to recruit individuals to, and retain employees in, State and county employment; enhance the delivery of public services in our State; and further efforts to improve the quality of life of individuals and families.

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

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

March 19, 2025

To: The Honorable David A. Tarnas, Chair,
The Honorable Mahina Poepoe, Vice Chair, and
Members of the House Committee on Judiciary and Hawaiian Affairs

Date: Wednesday, March 19, 2025

Time: 2:00 p.m.

Place: Conference Room 325, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 935 SD2 HD1 RELATING TO GOVERNMENT

The DLIR supports Part II of the HD1 of this measure and defers to the Employees' Retirement System (ERS) on the specifics, as well as to the Department of Budget and Finance (B&F) on the fiscal impact. The department believes that the proposed reduction in the vesting requirement will help the Hawaii Occupational Safety and Health Division (HIOSH) attract and retain both Boiler and Elevator Inspectors.

Historically, HIOSH has been able to recruit older workers seeking a second or alternative career to serve as Boiler and Elevator Inspectors. However, since the change in law requiring a ten-year vesting period, HIOSH has faced challenges in recruiting these workers. If enacted, this measure could ease HIOSH's efforts to attract both Boiler and Elevator Inspectors.

Thank you for this opportunity to provide testimony on this important matter.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
201 MERCHANT STREET, SUITE 1700
HONOLULU, HAWAII 96813
Oahu (808) 586-7390
Toll Free 1(800) 295-0089
www.eutf.hawaii.gov

BOARD OF TRUSTEES
RYAN YAMANE, *CHAIRPERSON*
ROBERT YU, *VICE-CHAIRPERSON*
JAMES WATARU, *SECRETARY-TREASURER*
JACQUELINE FERGUSON-MIYAMOTO
CHRISTIAN FERN
AUDREY HIDANO
WESLEY MACHIDA
SABRINA NASIR
OSA TUJI
MAUREEN WAKUZAWA

ADMINISTRATOR
DEREK M. MIZUNO

ASSISTANT ADMINISTRATOR
DONNA A. TONAKI

WRITTEN ONLY

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON SENATE BILL NO. 935 S.D.2 H.D.1

March 19, 2025
2:00 p.m.
Conference Room 325 & Videoconference

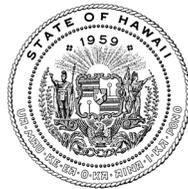
RELATING TO GOVERNMENT

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not taken a position on this bill. EUTF staff would like to provide comments on the section of the proposed bill that reduces the vesting period from ten to five years for qualified Tier 2 Employees' Retirement System members. This change will not impact the State and counties (Employers) contribution to retiree health care premiums (i.e., medical, prescription drug, dental and vision premiums) since the Employers' health care contribution percentage is 0% of the Base Composite Monthly Contribution for retirees with 5-years but less than 10-years of service. However, the Employers will still be required to reimburse Medicare Part B premiums for the retirees in this group and if the retiree was hired prior to July 1, 2023, the spouse as well. The bill would not impact the State's unfunded liability as of July 1, 2024 but would have increased the recently determined normal cost by approximately \$13 million (5.5% increase in the normal cost) with approximately 4% growth thereafter.

Thank you for the opportunity to testify.

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide informed service that is excellent, courteous, and compassionate.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
ON
SENATE BILL NO. 935, S.D. 2, H.D. 1

March 19, 2025
2:00 p.m.
Room 325 and Videoconference

RELATING TO GOVERNMENT

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 935, S.D. 2, H.D. 1, does the following: 1) reduces the retirement allowance for judges starting service after June 30, 2025, to 1.75% annually for each year of service and provides for an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service; 2) increases the retirement compensation computations of sheriffs and deputies to match those of police officers and other related positions; 3) reduces the minimum number of years of credited service qualified Tier 2 members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years; and 4) increases employer contributions to offset the liability produced by the vesting changes.

B&F defers to the Employees' Retirement System on the impacts of changes to the retirement compensation for judges and vesting changes for Tier 2 employees; however, B&F has serious concerns about the proposed amendments for the retirement compensation computations for sheriffs and deputies as they will increase the State's unfunded actuarial accrued liabilities (UAAL) for pension accumulation and other

post-employment benefits for these employees and will set an undesirable precedent for other employee groups to request the same benefit enhancements.

It is important to note that Section 88-99, HRS, prohibits benefit enhancements for any group of members, including any reduction of retirement age, until such time as the actuarial value of the system's assets is 100% of the system's actuarial liability, which is currently estimated at 22 years from now. A setback in the timeline of funding the State's UAALs and the increased annual fixed cost requirements burdening the State's budget will negatively impact the State's credit rating.

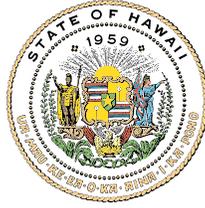
Further, while this measure increases the retirement compensation for sheriffs and deputies, it does not make conforming amendments to Section 88-45, HRS, to adjust their employee contributions to police officers. Police officers and firefighters are provided with the ability to retire upon meeting service requirements without penalty for age; however, these employees contribute 14.2% of their compensation for this benefit. As the bill is currently drafted, sheriffs and deputies will be provided police officer retirement benefits without having to contribute appropriately.

Finally, it should be noted that sheriffs and deputies do not have the Social Security contribution exemption that police officers and firefighters have. (NOTE: When Social Security was being implemented, states were given the one-time option to exempt certain classes of employees - Hawai'i opted to exempt police officers and firefighters.) Consequently, if these employees are required to contribute 14.2% of their compensation like police officers and firefighters, their Federal Insurance Contributions Act (7.65%) and retirement contributions would amount to 21.85% of their compensation.

Thank you for your consideration of our comments.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

GAIL STROHL
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

**TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
PROVIDING COMMENTS ON
SENATE BILL NO. 935, S.D.2, H.D.1
March 19, 2025
2:00 P.M.
Conference Room 325 and VIA Videoconference**

RELATING TO THE GOVERNMENT.

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

The ERS Board of Trustees (BOT) supports the intent to lower the vesting requirement for tier 2 employees with the intent to increase membership but has serious concerns regarding the application of special category benefits for Sheriffs and Deputy Sheriffs and respectfully offers the following comments.

S.B. 935, S.D.2, H.D. 1 proposes to: 1) reduce the multiplier for tier 1 elective and legislative officers with service credited as a judge after June 30, 2025 from 3% to 1.75% per year; 2) eliminate the minimum age requirement of age sixty to avoid an age reduction on credited service as a judge after June 30, 2025 for elective and legislative officers; 3) adds sheriffs and deputy sheriffs to class of positions eligible for the 2.25% enhanced multipliers for year service and 80% maximum of their AFC; 4) reduce the Tier 2 vesting requirement for members in service on or after June 30, 2027 from 10 years to 5 years; and 5) increase the employer contribution rate for police officers, firefighters, corrections officers and all other employees by 0.19% beginning July 1, 2025.

ERS would clarify that the amendment in Section 1, page 5, lines 3 to 15 of the bill changes the benefit as a judge for elective and legislative officers who became



Employees' Retirement System
of the State of Hawaii

members before July 1, 2012. Although item one of standing committee report #1257 states in part that the intent of this measure is to:

Establish the retirement allowance for a member who first earned credited service as a judge after June 30, 2025, to 1.75 percent of their average final compensation for each year of credited service as a judge;

for the current House draft 1, this reduced retirement allowance would specifically apply to elective and legislative officers with ERS membership dates before July 1, 2012, who first earn credited service as a judge after June 30, 2025, rather than to any members with credited service as a judge after June 30, 2025.

ERS has concerns that the June 30, 2025 date of the reduced retirement allowance for judges first earning credited service after June 30, 2025 would not provide ERS adequate time to make the necessary changes to our pension administration system. The ERS requests that the date for this change be conformed to the July 1, 2027 date of the tier 2 vesting changes to provide the additional time necessary to make the operational and pension administration system changes required to implement these simultaneous changes.

The ERS also has serious concerns that addition of "sheriff and deputy sheriffs" under Section 2, page 9, line 15, would provide tier 2 contributory plan employees of this group enhanced contributory plan benefits without: 1) defining the positions eligible; 2) requiring mandatory enrollment as class A members of the contributory plan; 3) requiring similar minimum total and specific service requirements to qualify; 4) requiring similar minimum total service requirements to be exempt from an age reduction; and 5) requiring proportional increased employee and employer contribution rates. Absent these changes, "sheriffs and deputy sheriffs" will be able to receive an enhanced retirement allowance without having to pay the enhanced contributions and meet the minimum total and specific service requirements that other class A members must meet in order to be eligible for the same benefits.

There is also a concern about potential retroactive application of these benefits to tier 2 "sheriffs and deputy sheriffs" which would be administratively burdensome to both ERS and DLE. The ERS respectfully suggests that along with addressing the previous concerns regarding providing this tier 2 group of employees enhanced contributory benefits, a future effective date of July 1, 2027 for the enrollment and implementation of these benefits be considered.

The ERS humbly requests that should the bill be advanced, that the addition of sheriffs and deputy sheriffs to the classes of employees entitled to enhanced category benefits be removed so that the issues posed can be discussed and addressed with the stakeholders more thoroughly to ensure proper understanding and implementation. Should the committee choose to include the amendment regarding sheriffs and deputies, the ERS respectfully requests that language be added addressing the major concerns identified, including a clear future implementation date for enrollment,

contributions and benefit accrual of "after June 30, 2027" be included to coincide with the accompanying tier 2 vesting changes to provide ERS the time and the opportunity to budget funding necessary to implement such a significant proposal.

Thank you for the opportunity to provide testimony on S.B. 935, S.D.2, H.D.1.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary and Hawaiian Affairs
Representative David Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Wednesday, March 19, 2025, 2:00 p.m.
State Capitol, Conference Room 325 and Videoconference

by

Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 935, SD2, HD1, Relating to Government.

Purpose: Sets the retirement allowance for a member who first earns credited service as a judge after 6/30/2025, to 1.75 per cent of the judge's average final compensation for each year of credited service as a judge. Reduces the minimum number of years of credited service qualified Tier 2 Employees' Retirement System members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years. Increases employer contributions to offset the resulting liability.

Judiciary's Position:

The Judiciary respectfully and strongly opposes Section 1, page 4, lines 10 through 11, and page 5, lines 3 through 15, of Senate Bill 935, Senate Draft 2, House Draft 1, which proposes to decrease retirement benefits for “a member who first earned credited service as a judge after June 30, 2025.”

This bill singles out one group of employees—judges—from among several categories of employees (legislators, police, fire, and several others) who currently participate in the contributory retirement plan of the Employees Retirement System (ERS). It would also deter qualified and experienced attorneys from considering judgeships, which would exacerbate current significant recruiting challenges. To the extent that this measure may be a response to the



2025 Commission on Salaries' recommendations regarding judges, the changes proposed would be counterproductive and inconsistent with the Commission's recommendations and the Hawai'i Constitution.

1. The Bill Singles Out Judges for Disparate Treatment.

Almost the entire bill is drafted to improve recruitment and retention for government workers—except the provision that will have the opposite effect on judges alone. The approach taken by this bill is in stark contrast to Act 163, Session Laws of Hawai'i 2011, wherein changes were made to all categories of employees enrolled in the different retirement plans. Act 163 provided that all new employees entering into the ERS after June 30, 2012 would have more restrictive requirements and reduced benefits. In contrast, this bill singles out judges for a reduction.

2. This Bill Will Deter Qualified and Experienced Attorneys from Considering Judgeships.

Since July 1, 2012, the retirement multiplier for new elected officials and judges has been 3.0 percent of the member's average final compensation for each credited year of service in their public office position. This proposed reduction for new judges from 3.0 percent to 1.75 percent is highly consequential. Reduced retirement benefits for new judges will adversely affect recruitment of judicial applicants.

As noted by the 2013 Salary Commission, "Judges are constitutionally prohibited from practicing law, running for, or holding any other office or position of profit, including paid service on for-profit boards."¹ Retirement benefits are tremendously important to attract judges because of the limits on earning additional income. Retirement benefits are also important because of the mandatory retirement age (70 years) applicable only to judges.² Reducing retirement benefits adversely affects the total compensation and benefits package for judges, impairing the ability to attract the most qualified and experienced persons to serve.

Applications for judicial positions statewide since 2019 have trended downward overall and downward among women applicants. As a result, numerous deadlines for these public offices have been extended. Indeed, from 2019 through the summer of 2024, 30% of vacant judgeships statewide and 79% of vacant judgeships on the neighbor islands have required extended application deadlines.

¹ Quoting paragraph 2 on page 13 of the Salary Commission's Report and Recommendations to the 2013 Legislature dated March 18, 2013.

² Haw. Const. art. XI, § 3.



As of today, the Chief Judge of the Intermediate Court of Appeals position has been vacant³ for nearly fourteen months and was posted three times for recruitment. A Circuit Court Judge position in Kona was first posted for recruitment nearly 600 days ago and remains vacant. As a result, the single Kona District Court Judge has been presiding in Circuit Court matters and per diem judges have presided over the District Court calendar, which received nearly 16,000 new case filings last fiscal year.

In short, recruitment challenges already lead to prolonged vacancies of judicial positions that have in turn impacted the public. Reducing retirement benefits for judges will make it more difficult to attract judicial applications from the most highly qualified attorneys.

3. Response to Commission on Salaries Unwarranted.

To the extent the portion of this measure reducing judicial retirement benefits may be a response to the 2025 Commission on Salaries' (2025 Commission) recommended salary increases for elected officials, judges, and other appointed positions over the period of July 1, 2025 through July 1, 2030, that is unwarranted and undercuts the Commission's work, which is authorized by the Hawai'i Constitution. Undermining the 2025 Commission would be unhelpful and counterproductive.

Considering salary increases for judges from 2019 through 2024 were approximately 1% per year during a period of high inflation, Hawai'i judicial salaries are valued at 20% less today in real terms than they were in 2019. It is important to consider that context in evaluating the 2025 Commission's recommendations. Considering together the 1% per year increases from 2019 through 2024 and the recommendations for 2025 through 2030, circuit court judges would receive an average of 4% per year for twelve consecutive years, and less for other judicial positions. Respectfully, this is not excessive.

The 2025 Commission considered the recruitment challenges described briefly above and has expressed that "to recruit and retain highly qualified public officials who can perform at the level the State and residents expect and deserve, increases of the recommended magnitudes are necessary."⁴ The 2025 Commission elaborated:

The objectives in setting salaries for the Judicial Branch are to attract experienced and highly-capable attorneys for the most highly-qualified applicant pool for judicial positions, and to retain an experienced bench. While current judicial

³ Although an Associate Judge of the Intermediate Court of Appeals is serving as Acting Chief Judge, the vacancy has impacted the Court and the public because the Court is one judge short of its allotted seven judges.

⁴ Quoting page 2 of a draft report dated March 13, 2025, on the website of the Department of Human Resources Development. A final report has not been posted as of the date of this testimony.



salaries may be highly desired by the average Hawai‘i resident, this Commission on Salaries is seeking to recruit and retain Hawai‘i’s brightest legal minds with deep and broad experience to preside over legal challenges facing our state now and into the future.⁵

While the 2025 Commission recommends such salaries to attract experienced and highly-capable attorneys for the most highly-qualified applicant pool, weakening the retirement package for judges would undercut those recommendations and do the opposite. Further, Salary Commissions over the years invariably discuss retirement benefits of the different branches and made final recommendations based on those understandings and realities. Indeed, the 2025 Commission discussed judicial retirement benefits at length.⁶ The 2025 Commission finalized recommendations based on current retirement benefits.

Moreover, while shrinking retirement benefits for future members may at some point reduce expenses for the ERS, the monetary savings would be at or near zero for more than a decade, then minimal savings one retiree at a time thereafter.⁷ Meanwhile, the State is facing significant challenges recruiting new judges *now*, which impacts the public *now*.

4. The Bill Undermines the Role of the Salary Commission.

Ultimately, reducing judges’ retirement benefits as proposed in Section 1 of this measure would undermine the 2025 Commission’s salary recommendations, which is inconsistent with the Hawai‘i Constitution. Article XVI, section 3.5 of the Hawai‘i Constitution established a commission on salaries, which is charged with reviewing and making recommendations for the salaries of justices and judges of all State courts, members of the Legislature, and numerous executive officials. The Salary Commission has submitted recommendations to the Legislature in 2007, 2013, and 2019, and is about to submit recommendations in 2025. Enacting a law that singles out a particular class of employees is contrary to the very reason that the Salary Commission was designed as it was—e.g., to lessen politicization among branches on the topic of salaries—and undermines judicial independence. In this time where, nationally, judges and courts have become lightning rods for interpreting and applying constitutions and laws, the pertinent provision here is particularly concerning.

⁵ *Id.*

⁶ Recordings of the fourteen meetings of the 2025 Commission are available on the website of the Department of Human Resources Development here: <https://dhrd.hawaii.gov/state-hr-professionals/class-and-comp/executive-branch-commission-on-salaries/>.

⁷ This is true because if the provision takes effect on June 30, 2025 or July 1, 2027 as ERS requested, the average judge appointed on that date would not retire until mid-2042 or mid-2044. Only then—roughly—would the ERS pay out less to one retiree at a time than based on current law.



Senate Bill No. 935, SD2, HD1, Relating to Government
House Committee on Judiciary and Hawaiian Affairs
Wednesday, March 19, 2025
Page 5

For these reasons, the Judiciary must strongly oppose these portions of this bill, and the Judiciary would respectfully urge this Committee to remove the proposed revisions to Hawai'i Revised Statutes Section 88-74(d)(5)(C) in Section 1, page 4, lines 10 through 11, and the proposed creation of Hawai'i Revised Statutes Section 88-74(d)(5)(D) in Section 1, page 5, lines 3 through 15, of Senate Bill 935, Senate Draft 2, House Draft 1.

Thank you for the opportunity to present this testimony.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary & Hawaiian Affairs

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

Wednesday, March 19, 2025, 2:00 p.m.

State Capitol, Conference Room 016

by

Robert D. S. Kim

Chief Court Administrator

Third Circuit Court

Bill No. and Title: Senate Bill No. 935, S.D.2, H.D.1, Relating to Government

Purpose: Sets the retirement allowance for a member who first earns credited service as a judge after 6/30/2025, to 1.75 per cent of the judge’s average final compensation for each year of credited service as a judge. Reduces the minimum number of years of credited service qualified Tier 2 Employees’ Retirement System members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years. Increases employer contributions to offset the resulting liability. Effective 7/1/3000. (HD1)

Judiciary's Position:

On behalf of the Third Circuit, I am writing in strong opposition to the provisions of Senate Bill 935, S.D.2, H.D.1 that would drastically reduce judges’ retirement benefits after 6/30/2025. As a court administrator, I have firsthand knowledge of the challenges we currently face in recruiting and retaining judges statewide, and I can say with certainty that this reduction in benefits will significantly exacerbate this problem.

Applications for judicial positions have been declining since 2019. This trend has led to numerous deadline extensions due to an insufficient number of applicants for positions. For example, in the Third Circuit, the Judicial Selection Commission first posted a notice of judicial vacancy for a Circuit Court judge position in Kona back in August of 2023—nearly 600 days ago. This position remains vacant due to repeated extensions of the original September 2023 application



deadline. Likewise, the position of Chief Judge at the Intermediate Court of Appeals has been vacant for fourteen months and has had three extensions of the application deadline.

These recruitment challenges are due in large part to the compensation for judges not being competitive. The most qualified and experienced attorneys are capable of earning far more in private practice than they would as a judge. Moreover, private practice attorneys in their prime earning years are able to fund large 401K plans and other retirement programs.

The current recommendation by the Salary Commission to increase judges' salaries would help mitigate this issue if it is adopted, but the proposed cuts to judges' pensions under this bill will offset the potential benefits of any salary increase. Without the financial incentive of a reasonably competitive salary *and* good retirement benefits, it will continue to be difficult to find attorneys willing to make the sacrifices required to become a judge.

Being a judge requires a degree of social isolation and stepping back from many personal and professional relationships in order to adhere to the ethical limitations of the job. Many judges also work long hours—often beginning their days before business hours and staying late into the evening. Some judges can be required to be on call after hours for months at a time. For example, it is not uncommon in the Third Circuit for a district court judge to be woken in the middle of the night by police for a search warrant, and then be required to be at court before the start of business to prepare for a full day of hearings. This kind of grueling schedule and workload can negatively impact judges' family relationships and work-life balance. Additionally, it is unfortunately not uncommon for judges to deal with threats to their personal safety or to the safety of their family. Many retired judges also face significant barriers to returning to private practice after they leave the bench—a concern that can impact the decision to even apply for the bench, especially for attorneys who are well-established in private practice or are at an age where they would be subject to mandatory retirement.

Judicial candidates must not only be willing to make these sacrifices—they must also have extensive legal knowledge and expertise, be of sound judgment and character, and have a deep commitment to public service. A decent state pension has been one of the few, long-standing incentives for attorneys considering becoming a judge. The deep cut to judges' pensions in this bill will only serve to further discourage experienced and qualified attorneys from applying for these positions.

The provisions of this bill also unfairly single out judges among all public servants. Morale among sitting judges has already been impacted by this bill, because it sends a message that the work of judges is not valued. This may not have been the intent of the framers of this bill, but nevertheless this is the message that has been telegraphed. Even those judges who would not be directly affected by the reduction in benefits will feel targeted, and it is likely that many sitting judges will not seek retention.



This bill arrives at a time when public servants generally, and members of the judiciary in particular, are facing increased scrutiny and even outright hostility nationwide. The decision to target judges specifically for significant pension reductions, while increasing the benefits of other state workers, sends a deeply troubling message that the work of judges is uniquely unimportant and not valued. Given the vital role that the judiciary plays in upholding justice and the rule of law, this bill could have truly subversive, if unintended, effects.

The rule of law in our democracy depends on the courts, because it falls upon judges to protect due process and fundamental rights. The negative impact this bill will have on recruitment and retention will almost certainly undermine the vitality and independence of our judiciary and reduce the quality of justice in Hawaii. Maintaining a competitive retirement package is crucial to attracting the most qualified attorneys to apply for judicial appointments.

For these reasons, I strongly urge you to reject the provisions of S.B. 935, S.D.2, H.D.1 that would reduce the retirement allowance for judges. We must work together to ensure that service on the bench is a viable and attractive career path for highly qualified attorneys who are willing to make the sacrifices necessary to uphold our system of justice.

Thank you for your time and the opportunity to testify on this important bill.



1200 Ala Kapuna Street • Honolulu, Hawai'i 96819
Tel: (808) 833-2711 • Fax: (808) 839-7106 • Web: www.hsta.org

Osa Tui, Jr.
President

Logan Okita
Vice President

Cheney Kaku
Secretary-Treasurer

Ann Mahi
Executive Director

TESTIMONY TO THE HAWAI'I HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Item: SB 935, SD2, HD1 – Relating to Government

Position: Support (Part II) with amendments

Hearing: Wednesday, March 19, 2025, 2:00 pm, Room 325

Submitter: Osa Tui, Jr., President - Hawai'i State Teachers Association

Dear Chair Tarnas, Vice Chair Poepoe and members of the committee,

The Hawai'i State Teachers Association (HSTA) **supports** SB 935, SD2, HD1 **part II** which reduces the minimum number of years of credited service qualified Tier 2 Employees' Retirement System members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years.

SB 935, SD2, HD1 part II recommends an important amendment to the Employees' Retirement System by reducing the vesting period from ten years to five years for Tier 2 members which will help address our teacher and state worker shortage in Hawai'i. By reducing the vesting period from ten years to five years for these members, we can create a more attractive and competitive employment environment.

Shortening the vesting period will incentivize qualified individuals to pursue careers in public service in Hawai'i. The prospect of earlier retirement benefits will make positions in education and government more desirable, especially considering the high cost of living in our state.

However, we **oppose** the language in part I which sets the retirement allowance for a member who first earns credited service as a judge after 6/30/2025 to 1.75 per cent of the judge's average final compensation for each year of credited service as a judge.

As we know, a fair and independent judiciary is essential to protecting the rights of teachers, students, and the broader community. Judges play a crucial role in upholding collective bargaining agreements, enforcing labor protections, and ensuring that educational policies comply with the law. The proposed reduction in judicial retirement benefits threatens the ability of Hawai'i's courts to attract and retain experienced, highly qualified judges, jeopardizing the stability of a system that public employees rely on to ensure fairness in the workplace

SB 935, SD2, HD1 part II offers a practical solution to our workforce challenges, and we recommend passage to support our dedicated public service professionals and strengthen our state's workforce. That said, cutting judicial benefits sends the wrong message about the value of public service and risks long-term harm to our courts, our schools, and our communities. We recommend amending SB 935, SD2, HD1 to preserve judicial retirement benefits while maintaining the positive reforms that benefit Tier 2 and public safety employees.

Mahalo.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

HOUSE OF REPRESENTATIVES THE THIRTY-THIRD LEGISLATURE REGULAR SESSION OF 2025

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair

Wednesday, March 19, 2025, 2:00 PM
Conference Room 325 & Videoconference

Re: Testimony on SB935, SD2, HD1 – RELATING TO GOVERNMENT

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. UPW also represents approximately 1,500 healthcare workers in the private sector.

UPW provides comments on SB935, SD2, HD1, which sets the retirement allowance for a member who first earns credited service as a judge after 6/30/2025, to 1.75 per cent of the judge's average final compensation for each year of credited service as a judge. This measure also reduces the minimum number of years of credited service qualified Tier 2 Employees' Retirement System members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years.

UPW firmly opposes Part I of this bill, because it proposes to reduce judicial retirement benefits from 3% to 1.75% of average final compensation for judges first earning service after June 30, 2025. Judges are critical to ensuring fairness and protecting the rights of public employees, including UPW members, who often rely on the judiciary to safeguard labor protections, uphold collective bargaining agreements, and enforce workplace standards. Reducing retirement benefits undermines judicial independence and will discourage qualified, experienced attorneys from serving on the bench, ultimately weakening our courts and impairing their ability to deliver timely and just rulings. Fair compensation, including retirement security, is essential for maintaining the integrity and stability of the judiciary.

However, UPW does strongly support Part II of this bill, because we believe reducing the eligibility for vested benefit status from ten to five years could greatly assist the State and counties with the recruitment and retention of public employees. Additionally, this statutory change could aid in the recruitment of eligible former employees who may be considering a return to public service in order to achieve vested benefit status.

Mahalo for the opportunity to testify in support of this measure.

HEADQUARTERS

1426 North School Street
Honolulu, Hawaii 96817-1914
Phone 808.847.2631

HAWAII

362 East Lanikaula Street
Hilo, Hawaii 96720-4336
Phone 808.961.3424

KAUAI

2970 Kele Street, Suite 213
Lihue, Hawaii 96766-1803
Phone 808.245.2412

MAUI

841 Kolu Street
Wailuku, Hawaii 96793-1436
Phone 808.244.0815

1.866.454.4166

Toll Free - Molokai/Lanai only



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Third Legislature, State of Hawaii
House of Representatives
Committee on Judiciary and Hawaiian Affairs

Testimony by
Hawaii Government Employees Association

March 19, 2025

S.B. 935, S.D. 2, H.D. 1 — RELATING TO GOVERNMENT.

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO offers **comments** on S.B. 935, S.D. 2, H.D. 1, which sets the retirement allowance for a member who first earns credited service as a judge after 6/30/2025, to 1.75 per cent of the judge's average final compensation for each year of credited service as a judge. Reduces the minimum number of years of credited service qualified Tier 2 Employees' Retirement System members must have to be eligible for vested benefit status for service retirement allowance purposes from ten years to five years.

Our organization **supports** the provisions in this measure that reduces the vesting period from ten years to five years for Tier 2 ERS members. We recognize that our state and counties must explore new and alternative ways to recruit and retain a qualified workforce, especially at a time when government salary alone may not be enough to be considered an attractive career. Reports indicate that our state's workforce has a 24% vacancy rate. We appreciate the intent of this measure as it could serve as one of many tools to help with state and counties recruit new employees – furthermore, this change may help in the recruitment of former employees who may consider returning to public service to become vested.

Furthermore, we **oppose** the provisions in this measure that reduces the retirement multiplier for judges from 3 percent to 1.75 percent for new judges. We find that this portion is counter intuitive to the general theme of this measure which is intended to help with the recruitment of public servants. This provision will severely impact the recruitment of new judges – specifically, the recruitment of quality attorneys in private practice to apply as judges.

Thank you for the opportunity to provide comments on S.B. 935, S.D. 2, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director

SB-935-HD-1

Submitted on: 3/18/2025 11:42:29 AM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laura Barzilai	Kauai Bar Association	Oppose	Written Testimony Only

Comments:

Aloha Chair Tarnas and Vice Chair Poepoe,

On behalf of the Kaua'i County Bar Association, we are writing in opposition to SB935, SD2, Relating to Government, with regard to the proposed reduction in the judicial retirement allowance. We echo the opposition of the other neighbor island Bar Associations. The situation is similar on Kauai, with Circuit Court judges approaching retirement, difficulty in recruiting new or additional judges, and the great need in our county for a robust judiciary. We respectfully oppose any measure which would discourage highly qualified candidates from applying for a position with the judiciary, or affect the retirement benefits of respected judges with many years of excellent service. Thank you very much for your attention to our comments.

Respectfully submitted,

Andrew L. Kiyuna, President
K. Barzilai, Vice President
Bar Association

Laura
Kauai County



AMERICAN JUDICATURE SOCIETY

Advocating for a fair system of justice

Finance Factors Center
Suite 618, 1164 Bishop Street
Honolulu, Hawaii 96813

Web: www.americanjudicaturesociety.org
Email: susan.ajs2020@gmail.com

TESTIMONY PRESENTED BEFORE THE
HOUSE COMMITTEE ON JUDICIARY
AND HAWAIIAN AFFAIRS

BY

AMERICAN JUDICATURE SOCIETY

March 19 , 2025, 2:00 p.m.
Conference Room 325

SB935, SD2 Relating to Government

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee

The American Judicature Society opposes the provisions on pages 4 and 5 of this measure that would reduce retirement benefits for new judges.

American Judicature Society (AJS) is an independent, non-partisan membership organization working nationally to protect the integrity of the American justice system. Its mission is to secure and promote an independent and qualified judiciary and a fair system of justice.

To secure and promote an independent and qualified judiciary and a fair system of justice, the Hawai'i State Judiciary must be able to recruit highly-qualified attorneys to judicial positions across Hawai'i. AJS is deeply concerned with apparent difficulty recruiting judicial applicants in recent years, including today. Accordingly, AJS opposes pertinent provisions that would adversely impact the ability to recruit attorneys to judicial office.

Thank you for the opportunity to testify on this measure.

Lawrence S. Okinaga
Chair

Ivan M. Lui Kwan
Vice-Chair

SB-935-HD-1

Submitted on: 3/18/2025 12:20:35 PM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kenneth Robbins	ABOTA American Board of Trial Attorneys	Support	Written Testimony Only

Comments:

AOTA's mission is to perpetuate jury trials as the cornerstone of providing justice for all who seek the fairest possible resolution of civil disputes. Without a judge of the highest quality, a jury trial loses its integrity and the trust of litigants and their attorneys.

For an attorney in Hawaii, who has the makings to be a judge of the highest quality, a considerable financial sacrifice will have to be made. No matter the amount of pay increases as currently proposed, a significant financial sacrifice will be required to move from the private sector to the judiciary,

Refusing retirement benefits for members of the judiciary will only deter the best from applying.

The members of ABOTA humbly ask in the strongest terms that the proposed reduction not be adopted. On a personal note, I have tried to a jury verdict more than 150 civil trials. It is difficult to emphasize enough how important it has been to have had excellent judges presiding over each one.

Both Individually and on behalf of ABOTA, I ask that you not reduce what our judges deserve.

Thank you for allowing and considering my testimony,

Ken Robbins

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary & Hawaiian Affairs

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

Hearing: March 19, 2025, 2:00 p.m.

State Capitol Building
415 South Beretania Street
Honolulu, HI 96813

Re: Senate Bill No. 935 - Relating to Government

Chair David A. Tarnas, Vice Chair Mahina Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs,

The undersigned board members of the West Hawaii Bar Association are writing to express our strong opposition to the provisions of SB935, SD2 that would reduce the retirement allowance of judges from 3% to just 1.75% of a judge's average final compensation for each year of credited service as a judge. This proposal raises serious concerns about the long-term impact on the quality and stability of our Judiciary and the rule of law in the State of Hawaii, during a time when our nation is facing an unprecedented constitutional crisis.

Recruiting highly qualified attorneys to serve as judges is already a significant challenge. The lack of interest in judgeships has been keenly felt in West Hawaii. Recently, the application period for a vacancy in the Kona Circuit Court needed to be extended multiple times over a period of six months before the Judicial Selection Commission received enough applications to close the list.

The reasons for these recruitment challenges are self-evident. The compensation for judges is not competitive with private sector attorney positions, making it difficult to attract experienced attorneys who are otherwise capable of commanding far higher earnings in private practice. Judges in Hawaii accept their positions out of a deep commitment to public service, often at great financial sacrifice. However, one of the few incentives that has historically encouraged attorneys to apply for the bench is the assurance of a stable and fair state pension.

Reducing the retirement allowance for judges will only serve to exacerbate the difficulty in recruiting and retaining experienced and competent judges. Fewer qualified attorneys will be willing to step forward to serve on the bench, leading to a weakened Judiciary. This, in turn, will have detrimental effects on the efficiency and quality of our legal system. Vacancies on the bench result a range of negative consequences, including backlogs as cases pile up; inconsistent rulings as temporary or per diem judges are rotated in to cover calendars; and diminished public trust in the courts.

Furthermore, we must recognize the essential role of our Judiciary in upholding the rule of law. In its February 10, 2025 statement in support of the rule of law, the American Bar Association (“ABA”) acknowledged that this country is witnessing “chaotic” and “wide-scale affronts to the rule of law itself,” attacks on constitutionally protected rights, and attacks on dedicated public servants including “efforts to dismiss employees with little regard for the law and protections they merit.”¹ The ABA went on to declare that, in the face of this chaos, the courts “stand as a bulwark against these violations [of the Constitution and laws of the United States].”

While it may seem unthinkable, there is a possibility that a time will come when our state courts are our last bastion of justice and the rule of law. Now, more than ever, we need a strong, independent, and highly qualified Judiciary to ensure that our legal system remains fair, impartial, and capable of protecting our most basic and fundamental rights. Weakening judicial recruitment by diminishing retirement benefits threatens to undermine this essential institution at a critical moment. It also sends the wrong message—a demoralizing message—to penalize these dedicated public servants at a time when public employees are facing large-scale, unwarranted and indiscriminate attacks.

For these reasons, we respectfully urge this Honorable Committee to reject the provisions of SB935, SD2 that would reduce the retirement allowance of judges. Ensuring that we can attract the best legal minds to the bench is in the best interest of justice, the legal community, and the public.

Thank you for your time and consideration.

Sincerely,

/s/ Kori A. Weinberger
Vice President, West Hawaii Bar Association

/s/ Annaliese H. Wolf
President, West Hawaii Bar Association

/s/ Jessica Hatcher
2nd Treasurer, West Hawaii Bar Association

/s/ Georgette Yaindl
2nd Secretary, West Hawaii Bar Association

¹ See *The ABA supports the rule of law*, American Bar Association (Feb. 10, 2025), retrieved Mar. 11, 2025 from <<https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/aba-supports-the-rule-of-law/>>.

MAUI COUNTY BAR ASSOCIATION
P.O. Box 694, Wailuku, Hawaii 96793



OFFICERS

FRANK M. LOYD JR.
President

RICHARD PRIEST
Vice President

MEGAN SPENCE
Secretary

WENDY HUDSON
Treasurer

BOARD OF DIRECTORS

MAGDALENA BAJON
GUSTAVO GONZALEZ
KALEILEIHUA CABANAS
SEAN SCOTT
QUINCY BEDOYA
JESSICA TAKITANI-MOSES
ANDRES TOBAR
JILL UEHARA
NANCY ZHAO
WILLIAM PANNELL

SELINA PANNELL
Immediate Past President

TESTIMONY

House Committee on Judiciary & Hawaiian Affairs
Hearing 2:00 p.m. | March 19, 2025

TO: Representative David Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

FROM: Frank M. Loyd Jr., MCBA President

RE: SB 935, SD2 – RELATING TO GOVERNMENT

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

We are writing to testify in **OPPOSITION** to SB 935, SD2 – Relating to Government. This bill would set the retirement allowance for a member who has credited service as a judge after 6/30/2025 to 1.75% (from 3%) of the judge's average final compensation for each year of credited service as a judge.

Reducing the judicial retirement allowance from 3% to 1.75% will create a significant disincentive to attracting the most experienced and highly capable attorneys for the bench in the future. Applications for judicial positions statewide since 2019 have trended downward overall. As a result, numerous deadlines for these public offices have been extended. This has led to prolonged vacancies of judicial positions that have in turn impacted the public. In Maui, a Family Court Judge position has been vacant for nearly a year and remains vacant today.

All judges are subject to mandatory retirement at age 70. This causes concern for the future of the Judiciary of the Second Circuit as two of our Circuit Court judges will be reaching this mandatory retirement age within the next two years. Given the existing prolonged vacancies of judicial positions, District Court judges will be asked to cover Circuit Court calendars. With the concerning uptick in criminal citations and complaints, asking District Court judges to handle dual calendars will be unfeasible and will cause an overwhelming backlog of cases. SB 935 would only further exacerbate prolonged vacancies as there would be less qualified attorneys applying for these vacancies.

Therefore, we respectfully request this body act regarding the above legislation consistent with the best interests of the judiciary and our local communities. We humbly suggest that in accomplishing this, judicial compensation measures be maintained in a manner that most efficiently cultivates and maintains experienced, committed, and knowledgeable individuals serving our communities as judges.

Thank you for your consideration.



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

Robert Cavaco
State Board President

" A Police Organization for Police Officers Only "
Founded 1971

Term of Office
1-2022 to 12-2025

March 18, 2025

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
Committee on Judiciary and Hawaiian Affairs
Hawaii State Legislature
State Capitol
Honolulu, HI 96813

Re: STRONG OPPOSITION TO SB 935 AS WRITTEN

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee on Judiciary and Hawaiian Affairs:

The State of Hawaii Organization of Police Officers ("SHOPO"), proudly representing over 2,700 police officers across Honolulu, Maui, Kauai, and Hawaii Counties, strongly supports the positive elements of SB 935 HD1. However, we urge necessary amendments to eliminate the harmful reductions in judicial retirement benefits proposed by this bill.

SHOPO fully endorses the provisions of SB 935 HD1 that reduce the minimum number of years required for Tier 2 employees to achieve vested retirement benefits from ten years to five years. This adjustment significantly enhances retirement security, directly benefiting Hawaii's first responders, including police officers, firefighters, and other public safety personnel. By aligning retirement benefits more equitably across tiers, this bill addresses longstanding disparities, promotes fairness, and serves as a vital tool for recruitment and retention efforts within our public workforce.

Moreover, the proposed increase in employer contributions underscores a responsible commitment to maintaining the fiscal health and sustainability of the retirement system, directly supporting the dedicated men and women who risk their lives daily for Hawaii's communities. Ensuring these benefits remain attractive is critical to maintaining robust public safety agencies and protecting community well-being.

At the same time, we strongly urge the Committee to remove the provisions that reduce judicial retirement allowances from 3% to 1.75% per year of credited judicial service. Such reductions would discourage highly qualified legal professionals from pursuing judicial appointments, weakening judicial competence and negatively impacting our entire criminal justice system. Judges are integral to public safety, and maintaining competitive judicial benefits is essential for a fair and effective legal system.

Main Office & Honolulu Chapter Office
1717 Hoe Street
Honolulu, Hawaii 96819-3125
Tel: (808) 847-4676 "84 SHOPO"
www.shopohawaii.org Fax: (808) 841-4818

Hawaii Chapter Office
688 Kinoole Street, Room 220B
Hilo, Hawaii 96720-3877
Tel: (808) 934-8405
Fax: (808) 934-8210

Kauai Chapter Office
3176 Oihana Street, Suite 104, Lihue
Mailing Add: P. O. Box 1708
Lihue, Hawaii 96766-5708
Tel: (808) 246-8911

Maui Chapter Office
1887 Wili Pa Loop, Suite 2
Wailuku, Hawaii 96793-1253
Tel: (808) 242-6129
Fax: (808) 242-9519

SHOPO firmly believes both objectives can—and must—be achieved simultaneously. Removing the detrimental judicial benefit reductions while preserving and passing the vital improvements for Tier 2 employees will ensure fairness, strengthen recruitment and retention, and uphold public safety throughout our community.

We urge your support of SB 935 HD1 with these necessary amendments and respectfully request that the Committee pass an improved version of this important legislation.

Thank you for your consideration and continued commitment to Hawaii's public servants.

Respectfully submitted,

ROBERT CAVACO
SHOPO President

RC: ja

Hawai`i State Trial Judges Association

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary and Hawaiian Affairs

Representative David A. Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, March 19, 2025, 2:00 p.m.
State Capitol, Conference Room 325 and Videoconference

By

Board Members on Behalf of the Hawai`i State Trial Judges Association

Hon. Kirstin M. Hamman

Hon. Gregory H. Myers

Hon. Annalisa Bernard-Lee

Hon. Bryant Zane

WRITTEN TESTIMONY ONLY

Honorable Chair and Distinguished Committee Members:

On behalf of the Hawai'i State Trial Judges Association ("HSTJA"), I respectfully submit this testimony regarding SB935, SD2, HD1, which proposes to reduce the retirement allowance for judges who first earn credited service after June 30, 2025, to 1.75 percent of their average final compensation for each year of credited service.

The HSTJA strongly opposes SB935, SD2, HD1 and urges the Committee to reject this measure for the following compelling reasons:

Declining Judicial Applications and Recruitment Challenges

Since 2019, we have witnessed a concerning trend of declining applications for judicial positions across the state. This decline is particularly pronounced among female applicants, threatening the diversity and representativeness of our judiciary. The Judicial Selection Commission has repeatedly extended application deadlines for multiple positions, indicating a significant recruitment challenge that this bill would only exacerbate.

Substantial Impact on Judicial Administration

Prolonged judicial vacancies create serious disruptions in our justice system:

When circuit court positions remain vacant, either district or family court judges must be temporarily reassigned, creating a cascade of coverage issues, or the remaining circuit judges must absorb additional caseloads on their already full calendars. This inevitably leads to case backlogs and delayed justice for Hawai'i residents.

In district or family courts, vacancies necessitate reliance on rotating per diem judges, resulting in inconsistent rulings and unpredictable outcomes. This is particularly detrimental in family court proceedings, where consistency and stability are crucial for matters involving children and vulnerable families. Additionally, each time a per diem judge is brought in to handle district or family court matters, it costs the State approximately \$800 per day, significantly increasing judicial system expenses rather than creating the savings this bill purports to achieve.

These disruptions directly undermine the mission of the Family Court in the State of Hawai'i, which calls for a fair, speedy, economical, and accessible forum for the resolution of matters involving families and children. When judicial vacancies persist, the Family Court cannot fulfill this essential mission, leaving Hawai'i's most vulnerable families without timely resolution to critical issues affecting their welfare and stability.

Career Timeline Considerations

The judicial appointment process typically attracts highly experienced attorneys in their mid-career. Most legal professionals graduate from law school in their mid-twenties and develop their expertise over decades before seeking judicial appointment in their forties or fifties. With mandatory retirement at age 70, newly appointed judges face a relatively limited judicial career timeframe.

Within this context, reducing the retirement multiplier to 1.75 percent would significantly diminish a judge's lifetime compensation. This reduction presents a substantial financial disincentive for accomplished attorneys to pursue judicial service, potentially compromising the quality and experience level of our judicial applicants.

Conclusion

The proposed reduction in retirement benefits would undermine our ability to attract and retain the most qualified legal minds to judicial service. Rather than achieving meaningful fiscal savings, this measure would impose long-term costs on our justice system deterring qualified applicants, extended vacancies, and administrative inefficiencies, including the increased expense of per diem judges.

We respectfully urge the Committee to preserve the current retirement benefit structure for judges and reject SB935, SD2, HD1.

Thank you for the opportunity to testify on this important matter.

TESTIMONY
House Committee on Judiciary and Hawaiian Affairs
Hearing: 2:00 p.m., March 19, 2025

TO: Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

FROM: Mark M. Murakami, HSBA President

RE: SB 935, SD2, HD1 - RELATING TO GOVERNMENT

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

Thank you for this opportunity testify in **OPPOSITION** to SB 935, SD2, HD1 – Relating to Government. SB 935, SD2, HD1 seeks to reduces judicial pensions from 3% to 1.75% for each year of credited service.

The State Judiciary plays a vital governmental role in upholding a fair and civil society. Community reports indicate a growing demand for judicial services in the current biennium, highlighting a concerning uptick in criminal citations and complaints. Yet, even as the need for qualified judges is increasing, it has been increasingly difficult to fill judicial positions. As the Judiciary has noted, prolonged vacancies have been further exacerbated because there are less qualified attorneys applying for these vacancies.

In FY 2024, HSBA membership was comprised of 959 government attorneys, 103 judges, 3,884 active members across the state, and 3,381 inactive attorneys (not practicing) across the state for a total of 8,327 members. The total pool of attorneys who would even potentially qualify for a judicial position is 4,843. Given the limited pool of qualified judges and candidates for judicial vacancies, HSBA is extremely concerned that reducing the pensions of retiring judges will further disincentivize qualified candidates from pursuing a vacancy.

Because of the need for additional judges and the limited number of qualified candidates, we strongly urge the legislature to maintain a strong incentives package for retiring judges to help attract qualified candidates and maintain a strong judiciary.

Mahalo for your consideration.

OFFICERS

Mark M. Murakami, President
Mark K. Murakami, President-Elect
Kristin E. Izumi-Nitao, Vice President
Erin M. Kobayashi, Secretary
Lanson K. Kupau, Treasurer

DIRECTORS

Jocelyn W.C. Chong
Steven J.T. Chow
Jessica R. Domingo
Geraldine N. Hasegawa (East Hawaii)
Chastity T. Imamura
Amanda M. Jones
Ronette M. Kawakami
Carol S. Kitaoka (West Hawaii)
Jacob K. Lowenthal (Maui)
Simeona L.L.A. Mariano
Emiko Meyers (Kauai)
Robert S. Miyashita
Arsima A. Muller
Paul W. Naso
Zale T. Okazaki

YLD PRESIDENT

Chad K.L. Au

IMMEDIATE PAST PRESIDENT

Jesse K. Souki

HSBA/ABA DELEGATE

Leslie A. Hayashi

EXECUTIVE DIRECTOR

Catherine A. Betts

SB-935-HD-1

Submitted on: 3/17/2025 5:43:31 PM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Victoria Marksl.	Individual	Oppose	Written Testimony Only

Comments:

Chair and members:

I strongly oppose reducing the retirement credit for judges to 1.75%.

It has been understood for decades that the legislature underpays the State's judges with the promise of a good retirement benefit. The salary commission is mitigating the low salaries a bit but not enough to justify this radical reduction in judicial retirement pay.

Thank you for considering my testimony.

respectfully submitted,

Victoria S. Marks, retired judge of the Circuit Court of the First Circuit

March 18, 2025

House Committee on Judiciary & Hawaiian Affairs
Hawai'i State Legislature
Via Electronic Transmission

Re: Testimony in OPPOSITION to Senate Bill 935, H.D. 1, Relating to Government
Hearing: March 19, 2025 at 2:00 PM, Room 325 via videoconference

To: The Honorable Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

We are a group of law students from the William S. Richardson School of Law at the University of Hawai'i, testifying in our individual capacities **in opposition to SB 935**. We are specifically opposed to the language in subsection (d) which reduces the retirement multiplier for judges "who first earned credited service as a judge after June 30, 2025." As current law students concerned for the future of our judiciary, we write to you in hopes that you might reconsider the portions of this bill dealing with the retirement of our state judges.

First, we are concerned about the recruitment and retention of judges, which is necessary for our judicial system to function smoothly. Reducing retirement benefits only serves to deter qualified applicants, many of whom leave high-paying jobs to work in public service and sit on the bench of our state courts. As previously stated in the Judiciary's testimony, there are already challenges in recruiting state judges; this measure would further exacerbate these existing difficulties.

Second, we have concerns about the separation of powers crucial to our tripartite system of government. Instead of reading as a cost-saving measure, the bill's specific targeting of judges raises questions in our mind about the intention behind this bill. It is notable that subsections (d)(1)-(d)(4) concerning the retirement benefits of elective and legislative officers remain untouched while judges' benefits are cut nearly in half. What kind of message does this send to the public about the coequal branches of government? We fear this change could be viewed as a lack of respect for the Judiciary's role in our state; this is a particularly dangerous sentiment in today's political and legal climate, which is increasingly characterized by a general disregard for the rule of law.

Third, we have concerns about the continued independence of our Judiciary if the Legislature exercises its power in this way. In order for our state government to operate effectively, judges must be able to make decisions based on the rule of law without fear of retribution. We do not wish to see a future where judges fear their compensation could be reduced because of an unpopular judgment. The preservation of judges' benefits is crucial to maintain the independent nature of our judicial system, which would fail to serve its purpose if each judge had to weigh the political popularity of each judgment.

As current law students, we sincerely hope that the Judiciary will continue to have the financial support it needs to function properly. We respectfully request that this committee redrafts this bill to leave judges' retirement benefits untouched, taking into account (1) impediments to recruitment; (2) separation of powers concerns; and (3) the importance of an independent judicial branch.

Mahalo nui for your thoughtful consideration of our testimony.

Respectfully submitted,

Lily Downing
Lexy Delgado
Christie Ferreira
Jasmine Joao
Brian Piotrowski
Gabriel Baugh



UNIVERSITY
of HAWAII®
MĀNOA

The William S. Richardson School of Law

Miyoko T. Pettit-Toledo
Assistant Professor of Law

March 18, 2025

Re: **Opposition to SB 935**

Dear Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary and Hawaiian Affairs Committee:

My name is Miyoko Pettit-Toledo, and I am an Assistant Professor of Law at the University of Hawai'i at Manoa William S. Richardson School of Law. I write in strong opposition to the provisions in SB 935, SD2 HD1 that propose to reduce the retirement allowance for new judges.

Those attorneys who choose to serve as state judges often leave otherwise lucrative private practice, government, or other positions in order to serve the public's interest from the bench. They work tirelessly with heavier case and docket loads than their federal counterparts, and they serve as leaders in both our legal and broader community. These judges deserve to be both compensated fairly while they serve on the bench and in their retirement with competitive retirement packages. In a state with one of the highest costs of living, including for those who are retired, the provisions on pages 4 and 5 of SB 935, SD2 HD1 will only exacerbate our state's challenges in recruiting and retaining the most qualified judicial candidates. In order to attract an outstanding and diverse pool of candidates and to ensure that they can serve from the bench for the duration of their careers, it is important to continue to have a competitive retirement package.

As we are unfortunately witnessing on the national stage, the rule of law and the promise that all people are treated fairly and equally under the law can be easily threatened without a strong, independent judiciary. Led by the Hawai'i Supreme Court, our state judiciary is a national leader in upholding these values that are cornerstones to the legal justice system, to the legal profession, and to a strong democracy. The provisions on pages 4 and 5 of SB 935, SD2 HD1 would undermine these values and efforts in seeking to reduce and attack judicial retirement packages.

Now more than ever, our community needs the most highly qualified judges who remain above the political fray and will rule on cases impartially and independently. Maintaining the current judicial retirement package for future state judges is critical to ensuring that our state judiciary remains steadfast in upholding these values.

Mahalo for the opportunity to testify on this measure.

Very truly yours,

A handwritten signature in black ink that reads 'Miyoko T. Pettit-Toledo'.

Miyoko T. Pettit-Toledo
Assistant Professor of Law
William S. Richardson School of Law, University of Hawai'i

James A. Kawachika
1003 Bishop Street, Suite 1550
Honolulu, Hawai`i 96813

March 18, 2025

Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair
Members, House Committee on Judiciary & Hawaiian Affairs

Re: Bill No.: SB 935, SD 2, HD 1

Hearing Date: Wednesday, March 19, 2025
Time: 2:00 p.m.
Place: Conference Room 325
State Capitol
415 South Beretania Street

Dear Chair Tarnas, Vice Chair Poepoe and Members of the House Committee on
Judiciary and Hawaiian Affairs:

We, the undersigned current and former lawyer-commissioners of the Judicial Selection Commission (“JSC”), write in opposition to SB 935, SD 2, HD 1 – Relating to Government, to the extent that it seeks to reduce judicial pensions from 3% to 1.75% for each year of credited service. Such a provision that seeks to cut the retirement benefits only for judges, as opposed to all other government employees, is not only unfair and discriminatory, but more importantly, exacerbates an already existing problem of finding qualified applicants for judicial positions. The latter is an issue of which the JSC has been and continues to be keenly aware and finds deeply concerning.

As has already been pointed out in the State of Hawai`i Judiciary’s testimony, applications for judicial positions since 2019 have trended downward, requiring the JSC to extend its deadlines numerous times in order to be able to field a list of qualified and attractive candidates to interview. To be sure, from 2019 through the summer of 2024, 30% of vacant judgeships statewide and 79% of vacant judgeships on the neighbor islands have necessitated extended application deadlines.

In turn, the delayed ability to field and recommend qualified judicial candidates has without question impacted the administration of justice in Hawai`i. The lack of judges being able to be timely appointed has necessarily lead to case backlogs and overburdened our

Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair
Members, House Committee on Judiciary & Hawaiian Affairs
March 18, 2025
Page 2 of 2

existing judges and has thereby ultimately undermined the mission of our courts to provide a fair, speedy and economical forum for the resolution of differences.

While the State Salary Commission has recently recommended an increase in salary for judges, which will help in recruiting the best and the brightest to aspire to a judicial career, a provision like that discussed above definitely detracts from that effort. We therefore respectfully submit and ask that you strike the aforesaid provision from the bill.

Thank you for allowing us this opportunity to share with you our thoughts on this important matter.

/s/ Simeon R. Acoba, Jr.
Hon. Simeon R. Acoba, Jr. (ret.)

/s/ James J. Bickerton
James J. Bickerton

/s/ Susan Ichinose
Susan Ichinose

/s/ James A. Kawachika
James A. Kawachika

/s/ Ronette M. Kawakami
Ronette M. Kawakami

/s/ Jeffrey S. Portnoy
Jeffrey S. Portnoy

/s/ Paul M. Ueoka
Paul M. Ueoka

**Testimony to the Thirty-Third Legislature
2025 Regular Session**

Wednesday, March 19, 2025, 2:00 p.m.
Hawai'i State Capitol, Conference Room 325

To: Committee on Judiciary & Hawaiian Affairs, House of Representatives
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

From: Judge Robert Mark Browning (Ret.)

Re: SB935, SD2, HD1 Relating To Government – Reduction of retirement benefits for *judges*

WRITTEN TESTIMONY ONLY

I strongly oppose pages 4 to 5 of SB935, SD2, HD1 which proposes to significantly reduce the retirement allowance for judges with credited service after 06/30/25 from 3.0 to 1.75 percent.

I spent over 26 years as a trial court judge in the First Circuit of the State of Hawai'i. First as a Family Court Judge, then as the Circuit Court, Senior Family Court Judge, and then for the last six years of my judicial career, I served as the Chief Judge of the First Circuit.

For members of the public who seek justice from the courts, it is critical that top quality attorneys with a depth and breadth of legal experience seek judicial office. Reducing pension retirement benefits for future judges, in my opinion, will negatively impact recruitment of qualified applicants to fill judicial vacancies.

During my tenure as Chief Judge, I witnessed firsthand the overall downward trend of judicial applicants since 2019 when several application deadlines had to be extended because of an insufficient number of applicants. This took place after legislators in prior years had introduced legislation that singled out judges for a reduction in retirement benefits in 2016 (HB2006) and 2017 (SB249), as well as other measures relating to the selection and retention of judges.

Just as in prior years, judges are the only group of public servants proposed to be negatively impacted by SB935, SD2, HD1. The proposed changes for other categories of State employees in the bill are favorable and meant to establish more competitive benefits to recruit and retain qualified public sector employees. Judges, on the other hand, are singled out for a reduction in benefits for reasons that are completely absent from the Committee reports relating to the bill.

People that come before the courts to resolve highly charged and emotional cases, such as child custody disputes, who seek domestic violence protection, or who seek redress for wrongful

death or catastrophic injury caused by reckless or negligent acts of others, deserve judges who are qualified to handle the legal complexities of the cases brought in our state courts. They also deserve judges who are fair, impartial, and independent from the other two branches of government.

It is evident to me, in my experience of serving as a trial judge for over 26 years, that SB 935, SD2, HD1 is unjust and unbecoming of a legislative body, and I urge this Committee to delete the portions of the bill that unfairly target members of the judicial branch.

SB-935-HD-1

Submitted on: 3/18/2025 4:14:17 PM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Steven H. Levinson	Individual	Oppose	Written Testimony Only

Comments:

Honorable Chair Tarnas, Vice Chair Poepoe, and members,

I stongly oppose reducing the retirement credit for new judges to 1.75%. I agree with and incorporate by reference the previously submitted testimonies of Administrative Director of the Courts Rodney A. Maile and Circuit Court Judge (Retired) Victoria S. Marks.

Respectfully submitted,

Steven H. Levinson, Associate Justice (Retired), Hawaii Supreme Court

SB-935-HD-1

Submitted on: 3/18/2025 9:17:58 PM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Liann Ebesugawa	Individual	Comments	Written Testimony Only

Comments:

Dear Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary and Hawaiian Affairs Committee:

My name is Liann Ebesugawa and I am a practicing attorney in Hawaii. I write in strong opposition to the provisions in SB 935, SD2 HD1 that propose to reduce the retirement allowance for judges from 3% to 1.75% per year of credited judicial service. These reductions would discourage highly qualified attorneys from serving on the bench and threaten the integrity and independence of our judiciary at this very critical time in history. Thank you for your consideration and the opportunity to testify on this measure.

SB-935-HD-1

Submitted on: 3/18/2025 9:30:42 PM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Trisha Nakamura	Individual	Comments	Written Testimony Only

Comments:

The Honorable House Committee on Judiciary & Hawaiian Affairs; 2:00 pm; Wednesday, March 19, 2025

Dear Honorable Chair Tarnas, Honorable Vice Chair Poepoe, and the Honorable members of the Judiciary and Hawaiian Affairs Committee:

I am a former Deputy Public Defender who appeared before numerous judges during my nearly six years at the Office of the Public Defender. I write in strong opposition to the provisions in SB 935, SD2 HD1 that propose to reduce the retirement allowance for judges from 3% to 1.75% per year of credited judicial service.

For the people who appear before judges (perhaps some pro se, as first-time plaintiffs or defendants, or as seasoned repeat players), judges represent fairness and government. An impartial and fair judiciary relies on individual judges who apply the rule of law, think analytically, and live their lives with integrity. Our courts and judges are key to a strong democracy. Those who step up to apply to become judges give much thought as to whether to do so; many already do not apply. This provision would discourage highly qualified attorneys from applying to serve and also sends a message to those who are interested in serving and the public that our judges are not valued.

Mahalo for your consideration.

SB-935-HD-1

Submitted on: 3/19/2025 4:49:51 AM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sergio Alcubilla	Individual	Oppose	Remotely Via Zoom

Comments:

March 19. 2025

Hawaii House of Representatives

Committee on Judiciary & Hawaiian Affairs

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

Dear Chair Rep. Tarnas, Vice Chair Poepoe, and Members of the Committee

As a member of the Hawaii State Bar Association I oppose SB935 SD2 HD1. This bill's impact unfairly targets judges and makes it much more difficult to encourage members of the bar to apply for open judicial positions. At a time when we need the checks and balances of our three branches of government, now is not the time to cripple the branch that is often the last line of defense in preserving our democracy.

I ask that this committee please take the concerns of the Judiciary seriously and oppose this measure.

Respectfully,

Sergio J. Alcubilla, Esq.

SB-935-HD-1

Submitted on: 3/19/2025 6:51:48 AM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph E Cardoza	Individual	Oppose	Written Testimony Only

Comments:

Chair: Hon. David A. Tarnas, Chair

Vice Chair: Hon. Mahina Poepoe, Vice Chair

Committee: House Committee on Judiciary & Hawaiian Affairs

Testimony of: Joseph E. Cardoza

Organization: Individual

Hearing Date: Wednesday, March 19, 2025

Hearing Time: 2:00 p.m.

Place: Conference Room 325 & Videoconference

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

Senate Bill: SB No. 935, SD2, HD1

Position: Opposition to HB 935, SD2, HD1 Relating To Government

Dear Chair Tarnas and Members of the House Committee on Judiciary & Hawaiian Affairs:

I oppose Senate Bill 935, SD2, HD1, to the extent that it proposes to reduce the retirement allowance for new judges who first earn credited service as a judge after June 30, 2025 from 3.00 per cent to 1.75 per cent of the judge's average final compensation for each year of credited service as a judge.

The recruitment of qualified applicants for judicial positions has become increasingly challenging in recent years. Recruitment is likely to become even more challenging given the current national climate in relation to judges. Today, more than ever, we need highly qualified applicants for judicial positions. Often overlooked are the factors impacting a decision to apply for a judicial position. Typically, an applicant for a judicial position is in the peak years of a legal career. These peak years are critical to preparing for eventual retirement. Leaving the practice of law to serve on the bench often includes a significant change in retirement planning that must be considered in the decision of whether to apply for a judicial position in the first place. This makes the retirement benefits package for judges a crucial consideration. A reduction in the retirement allowance for new judges moves the needle in the wrong direction and will only serve to weigh against applying for a judicial position. In turn, this adversely impacts the people of our state, an undesirable outcome for all concerned.

Thank you for the opportunity to present this written testimony. I do not plan to testify during the hearing on this Bill.

SB-935-HD-1

Submitted on: 3/19/2025 7:35:49 AM

Testimony for JHA on 3/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shawn Benton	Individual	Oppose	Written Testimony Only

Comments:

House Committee on Judiciary & Hawaiian Affairs; 2:00 pm; Wednesday, March 19, 2025

Dear Chair Tarnas, Vice Chair Poepoe, and members of the Judiciary and Hawaiian Affairs Committee:

My name is Shawn Benton and I am a practicing attorney in Hawaii. I write in strong opposition to the provisions in SB 935, SD2 HD1 that propose to reduce the retirement allowance for judges from 3% to 1.75% per year of credited judicial service for the same reasons presented by Rodney A. Maile, Administrative Director of the Courts, Robert D.S. Kim, Chief Court Administrator, Third Circuit Court, the West Hawaii Bar Association, the Maui Bar Association, Assistant Professor Miyoko T. Pettit-Toldeo, and the law students from the WSRSLS, University of Hawaii.

Thank you.

**HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
2:00 p.m., March 19, 2025, Conference Room 3125**

**Testimony of Steven H. Levinson in Opposition to SB 935, SD2,
HD1 Relating to Government**

March 19, 2025

Chair Tarnas, Vice Chair Poepoe, and distinguished committee members, my name is Steven H. Levinson, Associate Justice, Retired, Hawaii Supreme Court. I testify in strong opposition to SB 935, SD2, HD1, which, among other things, would set the retirement allowance for a judicial member of the ERS who has credited service as a judge commencing after June 30, 2025 at 1.75% (down from 3.0%) of the judge's average final compensation for each year of credited service as a judge.

This bill affects me personally not at all, because I retired from the Hawaii State Judiciary on December 31, 2008. On the others hand, it will have a devastating effect on the Judiciary's capacity to attract the best and most qualified attorneys from the private sector to serve as judges. Judicial careers generally do not exceed 20 or 25 years. Judges need to provide future financial security for their families during that period. The 1.75% multiplier will result in retirement benefits generally not exceeding 40% of the judges' final compensation for each year of credited service. That is simply insufficient to provide retirement security.

Thank you for the opportunity to testify.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served electronically (through the Court's JEFS system), or conventionally via US Mail, upon the following parties on the date below:

Robert Brian Black, Esq.
Benjamin M. Creps, Esq.
Public First Law Center
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
Tel: (808) 531-4000
E-mail: brian@publicfirstlaw.org
ben@publicfirstlaw.org

Attorneys for Plaintiff LEAGUE OF WOMEN VOTERS OF HAWAII

DATED: Honolulu, Hawai'i, January 30, 2026.

/s/ Lauren K. Chun

LAUREN K CHUN

Deputy Solicitor General

Attorney for Defendant STATE OF HAWAI'I