CHAPTER 23

CHECKS & BALANCES

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"What in the world is High-3?"

Have you ever wondered why some legislators avoid criticizing the administration—no matter what it does or does not do? Have you ever wondered why legislators, whose part-time salary is less than the full-time pay of many school teachers, receive a retirement income that sometimes is three or even four times as big? Have you ever wondered why so many legislators get appointed to other government positions?

"High-3" is a popular name for a way to increase the pension benefits of former legislators dramatically. Its importance is best appreciated by first taking a look at what it has helped to create and then working through a simplified example of how it works.

Cozy relationship. Some people are suspicious of the cozy relationship that seems to have developed between the legislative and executive branches of government. We believe this coziness reflects a "political spirit of aloha." Roughly translated, that means "To get along . . . you gotta go along!"

The "get-along, go-along" spirit may not always be in the best interest of the public. The separation of the legislative and executive branches of government is an integral part of a "checks and balances" design that promotes accountability and helps to keep the public informed of what government is or isn't doing.

Checks and balances work best when the legislative and executive branches of government are truly independent. Both sides are forced to articulate and defend specific policies and priorities. They keep each other honest as they vie for public support.

One reason for the "go-along" mentality is the administration's power to reward political supporters. For example, non-bid contracts can be given to firms that contribute to the political campaigns of go-along legislators; pet projects can be expedited; and a High-3 appointment can be made when the time comes.

Pension calculations. To understand the High-3 phenomenon, and why it's so attractive to state legislators, you have to know how pension benefits for state government employees are calculated. A simplified formula is summarized as follows:

Annual Retirement Income	=	**Accrual* Rate**	x	**Years of Service**	x	**Average of Highest 3 years of income**

* Accrual rate depends on job classification. For example, teachers have a rate of 1.25% unless they were hired before July 1, 1984 and have chosen to make regular contributions to the pension plan. The accrual rate for teachers in such a "contributory" plan is 2%. Legislators have a rate of 3.5% and their plan is always contributory. But unlike the teachers, who get a higher accrual rate for contributing to the plan, legislators get an annuity based on the amounts they contribute. This annuity is in addition to their retirement benefits under the usual formula. In comparing the benefits of a retired teacher to those of a retired legislator, we use accrual rates of 1.25% and 3.5% respectively, and ignore the extra annuity income paid to the legislator. To preserve this "apples to apples" comparison, We use an accrual rate of 1.25% for the legislator after appointment to another job. Readers should keep in mind that this is simplistic and is done solely to illustrate the effect of a legislator's appointment to a high-paying job.

Simple example. Assume that we have two state employees: a legislator and a teacher, both with 17 years of service. Assume further that the legislator's average salary over the highest three years is $35,000 and the teacher's is $45,000.

(A) ERS member	(B) Years of service	(C) Accrual rate	(BxC=D) Retirement benefit rate	(E) Ave. of highest 3 years of income	(DxE=F) Annual retirement income not counting sup. annuity
Legislator	17	3.5%	59.5%	$35,000	$20,825
Teacher	17	1.25%	21.25%	$45,000	$9,563

Despite having been a part-time employee and having earned a lower salary, the legislator can expect to receive annual retirement income that is more than double that of the teacher. This is simply a reflection of the legislator's higher accrual rate. It does not yet illustrate the so-called High-3, but is helpful in explaining how it works.

Now assume that the same two people work three more years at their current jobs and (for simplicity sake) at their same salaries.

(A) ERS member	(B) Years of service	(C) Accrual rate	(BxC=D) Retirement benefit rate	(E) Ave. of highest 3 years of income	(DxE=F) Annual retirement income not counting sup. annuity
Legislator	20	3.5%	70%	$35,000	$24,500
Teacher	20	1.25%	25%	$45,000	$11,250

Three additional years increased the legislator's advantage over the teacher. Again, that's pretty straightforward. It too is just helpful background.

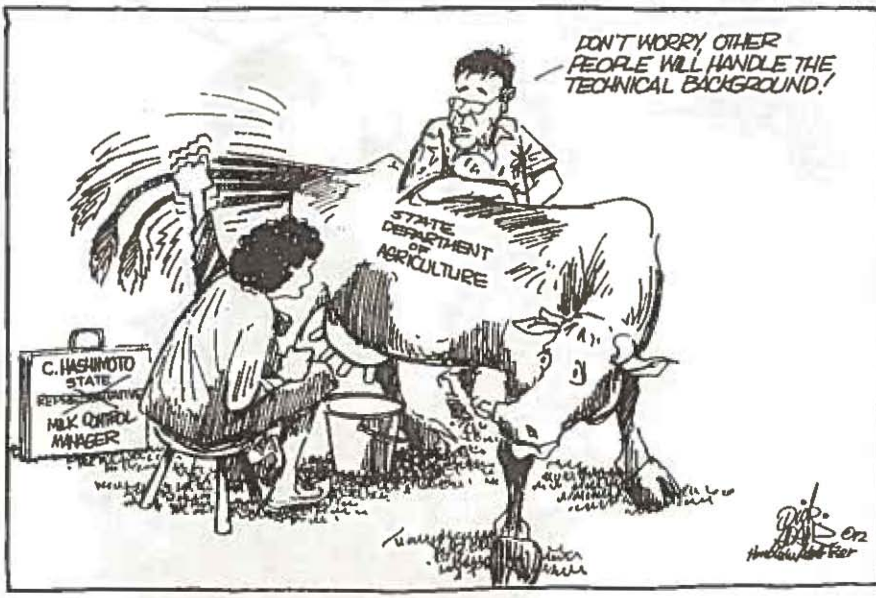
But now assume that the legislator, rather than stay in the legislature for those last three years, receives from the administration an appointment as, say, the manager of Aloha Stadium or a public utilities commissioner at $80,000 per year, and serves in that capacity for three years.

(A) ERS member	(B) Years of service	(C) Accrual rate	(BxC=D) Retirement benefit rate	(E) Ave. of highest 3 years of income	(DxE=F) Annual retirement income not counting sup. annuity
Legislator/ Political Appointee	17/ 3	3.50% 1.25%	63.25%	$80,000	$50,600
Teacher	20	1.25%	25.0%	$45,000	$11,250

Believe it or not, the legislator/political appointee's expected retirement more than doubles, jumping from $24,500 to $50,600 per year as a result of the appointment. This dramatic increase is called a High-3. Incidentally, it pushed the legislator/political appointee's annual retirement income to almost four and a half times that of the teacher.

What it means. The possibility of a High-3 can be used as a powerful tool in the hands of the executive branch. There is no good policy rationale for this method of calculating benefits, and it adversely affects our system of checks and balances. It's money coming out of taxpayers' pockets that hasn't been earned except in a strict legal sense.

If government in Hawai'i wants to begin the process of restoring public confidence, it should do away with the High-3. It might also consider reducing the spread between the accrual rates of legislators and teachers (and other public employees). Currently, legislators enjoy an accrual rate that is "second-to-none." Now where have we heard that expression?


DON'T WORRY, OTHER PEOPLE WILL HANDLE THE TECHNICAL BACKGROUND!
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NOTICE HOW THE LITTLE GUY HARDLY FLINCHES ANYMORE?
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