
A BILL FOR AN ACT

RELATING TO GOVERNMENT EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 88-92, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§88-92 Garnishment in certain cases; procedure.** (a)
4 Whenever the comptroller or attorney general of the State, or
5 any county finance director or attorney, or the head of any
6 department, bureau, board, or other agency of the State or any
7 county finds, or has reason to believe, that any person entitled
8 to any moneys mentioned in section 88-91 (such person being
9 hereinafter in this section designated as the defendant) has
10 embezzled, stolen or otherwise unlawfully taken, received,
11 retained, or failed properly to account for, any property or
12 funds belonging, and which have not been returned or repaid, to
13 the State or any county or any department, bureau, board, or
14 other agency thereof, he shall promptly notify the board of
15 trustees thereof in writing requesting the board to withhold
16 payment of such moneys to the defendant pending the
17 investigation hereinafter provided for and shall proceed



1 promptly to make such investigation as he deems necessary to
2 ascertain the facts.

3 (b) If after the investigation he finds insufficient
4 evidence in his judgment to warrant the action hereinafter
5 provided for, or if the investigation exonerates the defendant,
6 he shall promptly notify the board in writing of such finding
7 and shall withdraw the notice to withhold.

8 If, however, in his judgment, the evidence warrants the
9 action, he shall forthwith bring an action in the name of the
10 State or county, or the department, bureau, board, or other
11 agency concerned (if it is authorized by law to sue in its own
12 name), as the case may be, against the defendant in a court
13 having jurisdiction of the amount of the judgment prayed for in
14 any district or circuit, as the case may be, in which the
15 defendant can be found or resides, or in the circuit court of
16 the first judicial circuit, setting forth of his own knowledge
17 or on information and belief, as the case may be, the facts of
18 the case, including the amount of funds or the value and
19 description of the property alleged to have been embezzled,
20 stolen or otherwise unlawfully taken, received or retained, or
21 not properly accounted for, naming the board as garnishee, and
22 praying for judgment against the defendant and for the issuance



1 of garnishment process against the board. All such courts are
2 hereby given jurisdiction of these actions.

3 (c) If the defendant is convicted, pleads guilty or no
4 contest, even if the plea is deferred, to having embezzled,
5 stolen, or otherwise unlawfully taken, received, or retained, or
6 failed properly to account for, any property or funds belonging
7 to the State or any county or any department, bureau, board, or
8 other agency, the courts with jurisdiction of these actions
9 shall order that judgment in an amount equal to four times the
10 amount of funds or the value of the property which was
11 embezzled, stolen, or otherwise unlawfully taken, received, or
12 retained, or not properly accounted for, shall be made.

13 Notwithstanding any other law to the contrary, the garnishee
14 shall withhold an amount not to exceed thirty times the federal
15 minimum hourly wage or twenty-five per cent of the defendant's
16 disposable income, whichever is less, that is sufficient to
17 ensure that judgment against the defendant is fully paid.

18 (d) The form of the complaint and summons shall be
19 similar, as nearly as may be, to that used in proceedings
20 against government beneficiaries under chapter 653, and the
21 action authorized by this section shall lie notwithstanding the
22 fact that the claim in certain cases may be for an unliquidated



1 amount or may sound in tort. Upon receipt of the notice, the
2 board shall withhold the payment of the moneys to the defendant
3 for the period and in the manner hereinafter provided. If the
4 garnishment process hereinabove mentioned is not served upon the
5 board within the period of sixty days after receipt by the board
6 of the notice to withhold, or if before the expiration of the
7 period the notice to withhold shall be withdrawn, the board
8 shall thereupon pay such moneys to the defendant.

9 If, however, the garnishment process is served upon the
10 board within the period, it shall be unlawful for the board to
11 pay any such moneys to the defendant or his order until the
12 garnishment proceedings shall have been withdrawn or dismissed,
13 or the judgment, if any, obtained against the defendant shall
14 have been fully paid, any of which events, as the case may be,
15 shall be certified by the court, in or before which such
16 proceedings has been pending. The moneys so withheld from the
17 defendant shall be deemed sequestered in the custody of the
18 board from the time of service on the board. At any time after
19 service upon the board, the court, upon the consent of the
20 plaintiff or upon motion of the defendant or of the board and
21 notice to the plaintiff, may determine whether the amount so
22 withheld is excessive in comparison with the judgment that the



1 plaintiff might obtain in the action, and, if so, what part
2 thereof is a reasonable amount to be so sequestered, and may
3 thereupon release the remainder thereof from being so
4 sequestered.

5 (e) The provisions of chapter 653 shall be applicable, as
6 nearly as may be, to garnishment proceedings authorized by this
7 section, as to certification of the judgment to the garnishee,
8 payment of judgment, and other matters not specifically provided
9 for in this section."

10 SECTION 2. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 3. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2050.



HB 3018
HD1

Report Title:

Garnishment; Wages; Public Employees

Description:

Provides that, in cases where public employees are convicted, pleads guilty or no contest to, even if the plea is deferred, to having embezzled, stolen or otherwise unlawfully taken, received, or retained, or failed properly to account for, any property or funds belonging to the State or any county or any department, bureau, board, or other agency, public employees be fined four times the amount taken. (HB3018 HD1)

