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# 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, 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,  
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 sufficient to ensure that judgment  
15 against the defendant is paid within five years.

16 (d) The form of the complaint and summons shall be  
17 similar, as nearly as may be, to that used in proceedings  
18 against government beneficiaries under chapter 653, and the  
19 action authorized by this section shall lie notwithstanding the  
20 fact that the claim in certain cases may be for an unliquidated  
21 amount or may sound in tort. Upon receipt of the notice, the  
22 board shall withhold the payment of the moneys to the defendant



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5 period the notice to withhold shall be withdrawn, the board  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

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10 garnishment proceedings shall have been withdrawn or dismissed,  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



1 thereupon release the remainder thereof from being so  
2 sequestered.

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

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

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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HB 3018

**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, 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.

