

JAN 17 2008

A BILL FOR AN ACT

RELATING TO PUBLIC OFFICIALS AND EMPLOYEES CONVICTED OF WORK-RELATED FELONIES.

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

1 SECTION 1. The legislature finds that the State has no
2 policy mandating the forfeiture of pension benefits by a public
3 official or employee who has been convicted of a felony arising
4 out of the public official or public employee's employment. No
5 matter how serious the offense or how grossly a public official
6 or employee has abused their public office, the current laws
7 which govern pension plans for state and municipal employees
8 make no provision for forfeiture in cases of a felony
9 conviction. A state or municipal employee who otherwise meets
10 the age and length of service requirements for a pension is
11 entitled to collect pension benefits, even if the employee has
12 betrayed the public trust and has been convicted of a felony
13 related to that betrayal of trust.

14 The purpose of this Act is to require the forfeiture or
15 reduction of the pension benefits of public officers and public
16 employees who are convicted of felonies arising out of conduct
17 related to their public employment.



1 SECTION 2. Chapter 706, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§706- Felonies by public officials or employees in the
5 course of public employment. (1) The court, when sentencing a
6 defendant who is a public official or public employee, shall
7 determine whether the offense for which the defendant is being
8 sentenced is related to the defendant's public employment.

9 (2) If the court finds that the offense for which the
10 defendant is being sentenced is related to the defendant's
11 public employment, the court, as an independent order or as part
12 of the defendant's sentence, shall:

13 (a) Order that any pension the defendant would otherwise
14 be entitled to under chapter 88, shall be forfeited;

15 or

16 (b) Order that any pension the defendant would otherwise
17 be entitled to under chapter 88, shall be reduced;
18 provided that the reduction shall be reasonable and
19 shall not exceed sixty-seven per cent of the total
20 pension the defendant would otherwise be entitled to
21 under chapter 88;



1 provided that upon the defendant's death, a beneficiary, as
2 defined in section 88-21, shall be entitled to the full amount
3 of the pension the beneficiary would otherwise be entitled to
4 under chapter 88.

5 (3) In sentencing a defendant under subsection (2), the
6 court shall examine the seriousness of the offense and the
7 public detriment resulting from the offense.

8 (4) A certified copy of the order, whether as an
9 independent order or as part of the defendant's sentence, shall
10 be filed with the board of trustees of the employees' retirement
11 system which shall enforce the order."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon ratification of
17 a constitutional amendment authorizing the legislature to
18 statutorily require the forfeiture or reduction of the pension
19 benefits of public officers and employees who are convicted of



1 felonies arising out of conduct related to their public
2 employment.

3

INTRODUCED BY:





Report Title:

Disposition of Convicted Defendants; Employees' Retirement System

Description:

Requires the forfeiture or reduction of the pension benefits of public officers and public employees convicted of a felony if the felony is related to their public employment, but maintains full benefits for beneficiaries upon death of convicted employee.

