
A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended
2 by adding a new section to subpart C of part II to be
3 appropriately designated and to read as follows:

4 "§88- Forfeiture of benefits; felony convictions. (a)
5 If a member, former member, or retirant is convicted of a felony
6 and the court finds that the felony is related to the employment
7 of the member, former member, or retirant by the State or any
8 county, the court may order, as a civil penalty pursuant to
9 section 706-605(8), a forfeiture by the member, former member,
10 or retirant of all or a portion of any:

- 11 (1) Interest;
12 (2) Hypothetical account balance in excess of the amount
13 representing any employee contributions made by or on
14 behalf of the member, former member, or retirant;
15 (3) Pension;
16 (4) Annuity; or
17 (5) Retirement allowance



1 to which the member, former member, or retirant may otherwise be
2 entitled under this chapter; provided that upon the death of the
3 member, former member, or retirant, the designated beneficiary
4 of the member, former member, or retirant may receive benefits
5 to which such beneficiary would otherwise be entitled under this
6 chapter.

7 (b) Upon receipt of a certified copy of the order
8 decreeing forfeiture, the system shall comply with the order and
9 shall reduce, suspend, or deny payment to the member, former
10 member, or retirant as provided in the order until such time as
11 the system receives a certified order to:

12 (1) Increase, resume, or make payments to the member,
13 former member, or retirant; or

14 (2) Quash or reverse the order of forfeiture.

15 The system shall not be required to make inquiry into the
16 propriety of the order of forfeiture or recoup any payments made
17 to the member, former member, or retirant prior to receipt by
18 the system of the order of forfeiture.

19 (c) For the purposes of this section, a felony is "related
20 to the employment" of an employee of the State or a county if
21 the employee uses or attempts to use the employee's official
22 position to commit the felony, including:



1 (1) Felonies in which state or county time, equipment, or
2 other facilities are used in the commission of the
3 felony;

4 (2) Bribery;

5 (3) Embezzlement, theft, or other unlawful taking,
6 receiving, retaining, or failing to account properly
7 for, any property or funds that belong to the State or
8 any county or any department, bureau, board, or other
9 agency thereof; or

10 (4) A felony committed against a person over whom the
11 employee, in the course of the employee's duties,
12 exercises custody or supervision.

13 (d) This section shall only apply to members, former
14 members, or retirants hired after the effective date of Act ,
15 Session Laws of Hawaii 2014, and shall not impair or diminish
16 benefits accrued prior to that effective date.

17 (e) This section shall not apply to accrued retirement
18 benefits that are non-forfeitable pursuant to sections 88-73(f),
19 88-281(g), and 88-331(f)."

20 SECTION 2. New statutory material is underscored.

21 SECTION 3. This Act shall take effect upon its approval.

Report Title:

Employees' Retirement System; Retirement Benefits; Felony Convictions; Forfeiture

Description:

Authorize a court to decree the forfeiture of all or any portion of the Employee Retirement System benefits to which a member, former member, or retirant of state or county employment would otherwise have been entitled if the member, former member, or retirant is convicted of a felony that the court finds to be related to the employment of the member, former member, or retirant. Requires the employees' retirement system to comply with the court. (SB1038 HD1)

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