

JAN 24 2013

A BILL FOR AN ACT

RELATING TO PUBLIC WORKERS.

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

1 SECTION 1. Section 78-12, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (e) and (f) to read:

4 "(e) If the indebtedness has occurred as a result of
5 salary or wage overpayment, the disbursing officer shall
6 determine the amount of indebtedness and notify the employee in
7 writing of the indebtedness; provided that, to be an actionable
8 cause of action, the determination and notice to the employee
9 shall be made within two years from the date of the salary or
10 wage overpayment, and not after. If the employee contests the
11 disbursing officer's determination of indebtedness, the employee
12 may request a hearing pursuant to chapter 91.

13 Regardless of whether a contested determination of
14 indebtedness under this subsection is pending, the disbursing
15 officer shall commence immediate recovery of the indebtedness as
16 provided in this subsection. If the indebtedness is less than
17 or equal to \$1,000, the disbursing officer shall immediately
18 deduct from the next payment of salary, wages, or compensation



1 due to the employee any amount up to the total amount of the
2 indebtedness. If the indebtedness is greater than \$1,000, the
3 disbursing officer shall deduct:

4 (1) The first \$1,000 immediately from the next payment of
5 salary, wages, or compensation due to the employee;
6 and

7 (2) One-quarter of the salary, wages, or compensation
8 during any subsequent periodic payment normally due to
9 the employee until the indebtedness is repaid in full.

10 (f) ~~[Regardless]~~ Except for indebtedness as a result of
11 salary or wage overpayment, regardless of whether a contested
12 determination of indebtedness is pending, the disbursing officer
13 shall commence immediate recovery of the indebtedness as
14 provided in this subsection. If the indebtedness is [equal to
15 ~~or]~~ less than or equal to \$1,000, the disbursing officer shall
16 immediately deduct from any subsequent periodic payment normally
17 due the employee any amount up to the total amount of
18 indebtedness and for indebtedness greater than \$1,000, the
19 disbursing officer shall deduct:

20 (1) An amount agreed to by the employee and the appointing
21 authority, but not less than \$100 per pay period; or



1 (2) One-quarter of the salary, wages, or compensation due
2 the employee until the indebtedness is repaid in full.
3 In addition to paragraph (1), an employee and the appointing
4 authority may agree to offset any remaining amount of
5 indebtedness by applying the current value of appropriate leave
6 or compensatory time credits posted in the employee's respective
7 accounts as balances that would otherwise be payable in cash
8 upon separation from service; provided that credits shall not be
9 applied to any extent that would require a refund of any moneys
10 already deducted or repaid or that would require the payment of
11 any moneys to the employee equivalent to a cashing out of leave
12 or compensatory time credits."

13 2. By amending subsection (h) to read:

14 "(h) If an employee is entitled to contest the
15 determination of indebtedness under a collective bargaining
16 grievance procedure, that procedure shall be used in lieu of a
17 hearing under subsection (e). A collective bargaining agreement
18 may include overpayment recovery procedures; provided that the
19 parties do not agree on any provision that would be inconsistent
20 with subsections [~~f~~] (e) and (g)."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



S.B. NO. 1300

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

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INTRODUCED BY: George Mercedo

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DC. Seal Log



S.B. NO. 1300

Report Title:

Public Workers; Overpayment; Garnishment

Description:

Amends section 78-12, HRS, to specify the process disbursing officers shall follow to immediately recover salary or wage overpayment made to public workers.

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