

STAND. COM. REP. NO.

2754

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 1038  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 1038, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize a court to order forfeiture of all or a portion of a public employee's retirement benefits if the public employee is convicted of a felony that is related to the public employee's employment.

This measure also requires the Employees' Retirement System to comply with the court order.

Your Committee received written comments in support of this measure from the Employees' Retirement System.

Your Committee finds that state constitutional protections accorded to accrued benefits from the Employees' Retirement System are the result of a contractual relationship between the public employee and the public employer. Your Committee further finds that this contract is violated by an employment-related felony conviction, and as a result, any constitutional protections for those accrued benefits are lost.

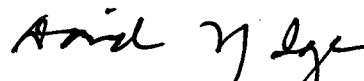
Your Committee has amended this measure by:



- (1) Clarifying, through the placement of the new language in subpart C of part II of chapter 88, Hawaii Revised Statutes, that the forfeiture provisions apply to all three classes of membership in the Employees' Retirement System;
- (2) Clarifying that a forfeiture of retirement benefits is a civil penalty;
- (3) Removing unnecessary language relating to garnishment actions;
- (4) Conforming the scope of the Employees' Retirement System's compliance with the scope of the court's forfeiture order;
- (5) Specifying the circumstances under which a felony is "related to the employment" of a public employee;
- (6) Clarifying that this measure shall not impair or diminish benefits accrued prior to the effective date of this measure;
- (7) Exempting non-forfeitable accrued retirement benefits from this measure; and
- (8) Changing the effective date to July 1, 2050, to facilitate further discussion.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1038, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1038, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,




---

DAVID Y. IGE, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1038, SBI	JDL, WAM	2-25-14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
KAHELE, Gilbert	✓			
KEITH-AGARAN, Gilbert S.C.	✓			
KOUCHI, Ronald D.				✓
RUDERMAN, Russell E.				✓
THIELEN, Laura H.	✓			
TOKUDA, Jill N.	✓			
SLOM, Sam	✓			
	10	0	0	3
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes