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## 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 part II to be appropriately  
3 designated and to read as follows:

4           "88-       Qualified domestic relations orders; payments to  
5 alternate payees. (a) The system shall make death or  
6 retirement benefit payments or refund contributions only as  
7 directed by law and rules, or as required by a qualified  
8 domestic relations order. Such benefit payments shall include  
9 allowances for the cost of living.

10           (b) An alternate payee shall qualify for death or  
11 retirement benefit payments or refund contributions pursuant to  
12 this section upon meeting the system's requirements for  
13 application and submission of a domestic relations order. If  
14 upon review and approval of an alternate payee's application,  
15 the system determines that the domestic relations order  
16 submitted by the alternate payee is a qualified domestic  
17 relations order, the system shall, subject to the limitations of



1 applicable laws and this chapter, pay benefits to the alternate  
2 payee in accordance with the qualified domestic relations order  
3 at the time benefits become payable to, or if contributions are  
4 withdrawn by, the member. Any determination that an order is a  
5 qualified domestic relations order is voidable or subject to  
6 modification if the system determines that the provisions of the  
7 order have been changed or that circumstances relevant to the  
8 determination have changed.

9 (c) This section shall not be construed to invalidate the  
10 process established by section 571-52.

11 (d) The system shall adopt rules under chapter 91 to  
12 implement this section.

13 (e) The system may charge an administrative fee payable by  
14 the member or retirant and the alternate payee in proportion to  
15 the benefits paid. The administrative fee may be deducted from  
16 the benefit payment.

17 (f) As used in this section:

18 "Alternate payee" means a former spouse or former civil  
19 union partner of a member or retirant who is recognized by a  
20 domestic relations order as having a right to receive all or a



1 portion of the benefits payable by the system with respect to  
2 that member or retirant.

3 "Domestic relations order" means a judgment, decree, or  
4 order, including approval of a property settlement agreement,  
5 that:

6 (1) Relates to the provision of alimony payments or  
7 marital property rights to a former spouse or former  
8 civil union partner; and

9 (2) Is made pursuant to a domestic relations law of this  
10 State or another state.

11 "Qualified domestic relations order" means a domestic  
12 relations order that:

13 (1) Creates or recognizes the right of an alternate payee,  
14 or assigns to an alternate payee, the right to receive  
15 all or a portion of the benefits payable with respect  
16 to a member or retirant under the system; and

17 (2) Directs the system to disburse benefits to the  
18 alternate payee.

19 "State" means the fifty states of the United States, the  
20 District of Columbia, American Samoa, the United States Virgin  
21 Islands, Guam, and Puerto Rico."



# H.B. NO. 382

1 SECTION 2. Section 88-91, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§88-91 Exemption from taxation and execution. [The]  
4 Except as provided in section 88- , the right of a person to a  
5 pension, an annuity, or a retirement allowance, to the return of  
6 contributions, the pension, annuity, or retirement allowance  
7 itself, any optional benefit or death benefit, any other right  
8 accrued or accruing to any person under this part and the moneys  
9 in the various funds created under this part are exempted from  
10 any tax of the State and, except as in section 88-92 provided,  
11 shall not be subject to execution, garnishment, or any other  
12 process and shall be unassignable except as in this part  
13 specifically provided."

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

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on January 1, 2018.

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JAN 23 2015

INTRODUCED BY:

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HB HMS 2014-4153-1



# H.B. NO. 382

**Report Title:**

Employees' Retirement System; Division of Pension

**Description:**

Requires the Employees' Retirement System to divide pensions between a retired employee and non-employee former spouse or civil union partner, upon application and pursuant to a qualified domestic relations order.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

