
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, by a preponderance of the evidence,
7 the felony is related to the employment of the member, former
8 member, or retirant by the State or any county, the court may
9 decree a civil penalty, pursuant to section 706-605(8), of
10 forfeiture by the member, former member, or retirant of all or a
11 portion of any:

12 (1) Interest;

13 (2) Hypothetical account balance in excess of the amount
14 representing any employee contributions made by or on
15 behalf of the member, former member, or retirant;

16 (3) Pension;

17 (4) Annuity; or

18 (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 decree of forfeiture.

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



1 the employee uses or attempts to use the employee's official
2 position to commit the felony, including:

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

6 (2) Bribery;

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

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

15 (d) This section shall not impair or diminish benefits
16 accrued prior to the effective date of this section. This
17 section shall not apply to felonies committed prior to the
18 effective date of this section.

19 (e) This section shall not apply to accrued retirement
20 benefits that are non-forfeitable pursuant to sections 88-73(f),
21 88-281(g), and 88-331(f)."



- 1 SECTION 2. New statutory material is underscored.
- 2 SECTION 3. This Act shall take effect on January 7, 2059.



Report Title:

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

Description:

Allows the court to decree a forfeiture by the member, former member, or retirant of all or a portion of any interest, hypothetical account balance (in excess of the amount representing any employee contributions made by or on behalf of the member, former member, or retirant), pension, annuity, or retirement allowance that the member, former member, or retirant may otherwise be entitled to if a member, former member, or retirant is convicted of a felony and the court finds that the felony is related to the employment of the member, former member, or retirant by the State or any county. Requires the employees' retirement system to comply with the court order and suspend or deny payment to the member, former member, or retirant as provided in the order. Effective date 1/7/2059.
(SD2)

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