

S . B. NO. 2843

JAN 27 2016

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 to subpart C of part II a new section to be
3 appropriately designated and to read as follows:

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

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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; provided further that the designated beneficiary was
7 not also convicted of a felony based on the same set of
8 circumstances as the member, former member, or retirant
9 penalized under this section.

10 (b) Upon receipt of a certified copy of the order
11 decreeing forfeiture, the system shall comply with the order and
12 shall reduce, suspend, or deny payment to the member, former
13 member, retirant, or designated beneficiary, if applicable, as
14 provided in the order until such time as the system receives a
15 certified order to:

- 16 (1) Increase, resume, or make payments to the member,
17 former member, retirant, or designated beneficiary; or
18 (2) Quash or reverse the decree of forfeiture.

19 The system shall not be required to make inquiry into the
20 propriety of the order decreeing forfeiture or recoup any
21 payments made to the member, former member, retirant, or

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1 designated beneficiary prior to receipt by the system of the
2 order decreeing forfeiture.

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

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

10 (2) Bribery;

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

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

19 (d) This section shall not impair or diminish benefits
20 accrued prior to the effective date of Act , Session Laws of
21 Hawaii 2016. This section shall not apply to felonies committed

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1 prior to the effective date of Act , Session Laws of Hawaii
2 2016.

3 (e) This section shall not apply to accrued retirement
4 benefits that are non-forfeitable pursuant to sections 88-73(f),
5 88-281(g), and 88-331(f)."

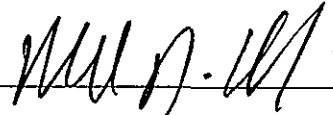
6 SECTION 2. New statutory material is underscored.

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

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INTRODUCED BY:

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BY REQUEST

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Report Title:

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

Description:

Authorizes forfeiture of certain Employees' Retirement System benefits, pursuant to court order, for state or county employees and designated beneficiaries who are convicted of an employment-related felony.

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

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

PURPOSE: To provide for forfeiture by a member, former member, or retirant of the Employees' Retirement System of the State of Hawaii, of all or a portion of any interest, hypothetical account balance, pension, annuity or retirement allowance otherwise payable to the member, former member or retirant if the member, former member or retirant is convicted of a felony related to the employment of the member, former member or retirant.

MEANS: Add a new section to subpart C of part II of chapter 88, Hawaii Revised Statutes.

JUSTIFICATION: This proposal would require the Employees' Retirement System of the State of Hawaii to comply with a court order decreeing a forfeiture of all or a portion of any interest, hypothetical account balance, pension, annuity or retirement allowance otherwise payable a member, former member, or retirant of the system convicted of a felony that the court finds is related to the employment of the member, former member, or retirant by the State or county. This proposal does not impair or diminish the accrued retirement benefits of members of Employees' Retirement System protected by article XVI, section 2, of the Hawaii State Constitution. This proposal applies prospectively to felonies committed by public employees after the effective date of the proposal.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.