

SB 2228

SD-1

**RELATING TO
EMPLOYEES'
RETIREMENT
SYSTEM**

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

- 11 (1) Interest;
12 (2) Hypothetical account balance in excess of the amount
13 representing any employee contributions made by or on
14 behalf of the member, former member, or retirant;
15 (3) Pension;
16 (4) Annuity; or
17 (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 the 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 order of forfeiture.

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

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

20 SECTION 2. New statutory material is underscored.

21



1 SECTION 3. This Act shall take effect on January 1, 2065.

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Report Title:

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

Description:

Authorizes a court to decree the forfeiture of all or any portion of the Employees' Retirement System benefits to which a member, former member, or retirant of state or county employment would otherwise have been entitled if the member, former member, or retirant is convicted of a felony that the court finds to be related to the employment of the member, former member, or retirant. Requires the employees' retirement system to comply with the court. Takes effect 1/1/2065. (SD1)

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



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TESTIMONY

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII

TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON

SENATE BILL NO. 2228, S.D. 1

**March 13, 2018
10:30 A.M.
Conference Room 309**

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Chair Johanson, Vice Chair Holt, and Members of the Committee,

S.B. 2228, S.D. 1 proposes to add a new section to subpart C of part II of Chapter 88, Hawaii Revised Statutes to provide for forfeiture by a member, former member, or retirant of the Employees' Retirement System (ERS) 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.

This proposal would require the ERS 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.



Employees' Retirement System
of the State of Hawaii

This proposal purports to 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.

The Board of Trustees of the Employees' Retirement System supports this legislation.

Thank you for this opportunity to provide testimony on S.B. 2228, S.D. 1.

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TESTIMONY