
A BILL FOR AN ACT

RELATING TO GOVERNMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the people of Hawaii
2 expect and deserve a government that will work in their best
3 interest, free from corruption or undue influence.
4 Unfortunately, from time to time in democracies around the
5 world, some government leaders and employees in positions of
6 trust are found to have made decisions in their own best
7 interest, rather than those of the people they serve.

8 Few countries have dealt with corruption as well as
9 Singapore, where the government once faced significant
10 corruption and scandal. Singapore has since adopted strict
11 penalties for corruption and strong incentives to prevent it.
12 Those found guilty of corruption in Singapore can now face
13 fines, forfeiture of benefits, and time in prison. To deter
14 bribery and corruption, Singapore pays government employees
15 competitive salaries, some of which are directly benchmarked to
16 sixty per cent of the median income of the top salary earners in
17 Singapore. These competitive benefits are designed to deter the



1 need for underpaid workers to succumb to bribery, and to attract
2 talented leaders to public service who would otherwise earn
3 significantly more by remaining in the private sector, resulting
4 in better leadership benefitting the people of Singapore.

5 Strong penalties and competitive benefits have resulted in
6 the recruitment of talented leaders less likely to succumb to
7 bribery or corruption. These reforms have catapulted Singapore
8 forward and today the country is consistently rated among the
9 least corrupt nations in the world.

10 The legislature further finds that in Hawaii, instances of
11 corruption cannot be tolerated by government leaders or
12 employees. Recent cases of corruption demonstrate that
13 significant and meaningful reforms are necessary to prevent
14 corruption or bribery to protect the public interest in the
15 future. These include stronger penalties, including the loss of
16 pension benefits, for government leaders and employees found
17 guilty of corruption, and competitive salaries to attract
18 talented workers to public service that would otherwise earn
19 more by remaining in the private sector.

20 The purpose of this Act is to:



- 1 (1) Authorize the forfeiture of certain employees'
2 retirement system benefits, pursuant to court order,
3 for state or county employees and designated
4 beneficiaries who are convicted of an employment-
5 related felony;
- 6 (2) Make ethics code violations a class A felony for
7 government leaders;
- 8 (3) Increase the offense of bribery to a class A felony
9 for government leaders;
- 10 (4) Require the commission on salaries, in making its
11 salary recommendations for government leaders, to
12 consider competition with private sector equivalents
13 and the deterrence of corruption and bribery by
14 persons appointed to those position; and
- 15 (5) Create a task force to investigate the prevention of
16 corruption and bribery, including establishing
17 heightened penalties and salaries that are competitive
18 with private sector equivalents for all other
19 government employees not subject to the commission on
20 salaries.



1 SECTION 2. 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,

19 to which the member, former member, or retirant may otherwise be
20 entitled under this chapter; provided that upon the death of the
21 member, former member, or retirant, the designated beneficiary



1 of the member, former member, or retirant may receive benefits
2 to which that beneficiary would otherwise be entitled under this
3 chapter; provided further that the designated beneficiary was
4 not also convicted of a felony based on the same set of
5 circumstances as the member, former member, or retirant
6 penalized under this section.

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, retirant, or designated beneficiary, if applicable, as
11 provided in the order until such time as the system receives a
12 certified order to:

13 (1) Increase, resume, or make payments to the member,
14 former member, retirant, or designated beneficiary; or

15 (2) Quash or reverse the decree of forfeiture.

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



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

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

8 (2) Bribery;

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

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

17 (d) This section shall not impair or diminish benefits
18 accrued prior to the effective date of Act , Session Laws of
19 Hawaii 2020. This section shall not apply to felonies committed
20 prior to the effective date of Act , Session Laws of Hawaii
21 2020.



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

4 SECTION 3. Section 26-56, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The commission shall review and recommend an
7 appropriate salary for the governor, lieutenant governor,
8 members of the legislature, justices and judges of all state
9 courts, administrative director of the State or an equivalent
10 position, and department heads or executive officers and the
11 deputies or assistants to the department heads of the
12 departments of:

- 13 (1) Accounting and general services;
- 14 (2) Agriculture;
- 15 (3) The attorney general;
- 16 (4) Budget and finance;
- 17 (5) Business, economic development, and tourism;
- 18 (6) Commerce and consumer affairs;
- 19 (7) Defense;
- 20 (8) Hawaiian home lands;
- 21 (9) Health;



- 1 (10) Human resources development;
- 2 (11) Human services;
- 3 (12) Labor and industrial relations;
- 4 (13) Land and natural resources;
- 5 (14) Public safety;
- 6 (15) Taxation; and
- 7 (16) Transportation.

8 The commission shall not review the salary of any position
9 in the department of education or the University of Hawaii.

10 The commission may recommend different salaries for
11 department heads and executive officers and different salary
12 ranges for deputies or assistants to department heads; provided
13 that the commission shall recommend the same salary range for
14 deputies or assistants to department heads within the same
15 department; provided further that the appointing official shall
16 specify the salary for a particular position within the
17 applicable range. In making its salary recommendation for each
18 position, the commission shall consider competition with private
19 sector equivalents and the deterrence of corruption and bribery
20 by any person appointed to that position.



1 The commission shall not recommend salaries lower than
2 salary amounts recommended by prior commissions replaced by this
3 section."

4 SECTION 4. Section 84-19, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§84-19 Violation.** (a) Any favorable state action
7 obtained in violation of the code of ethics for legislators or
8 employees and former employees is voidable in the same manner as
9 voidable contracts as provided for under section 84-16; and the
10 State by the attorney general may pursue all legal and equitable
11 remedies available to it.

12 (b) The State by the attorney general may recover any fee,
13 compensation, gift, or profit received by any person as a result
14 of a violation of the code of ethics by a legislator or employee
15 or former legislator or employee. Action to recover under this
16 subsection shall be brought within one year of a determination
17 of such violation.

18 (c) [~~Any~~] Subject to subsection (d), any violation of this
19 chapter by an employee, candidate for election to and elected
20 delegate to the constitutional convention shall be punishable



1 only in accordance with the code of ethics adopted by the
2 constitutional convention.

3 (d) Any violation of this chapter by an employee whose
4 salary is subject to recommendation by the commission on
5 salaries pursuant to section 26-56 shall be guilty of a class A
6 felony."

7 SECTION 5. Section 710-1040, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§710-1040 Bribery.** (1) A person commits the offense of
10 bribery if:

11 (a) The person confers, or offers or agrees to confer,
12 directly or indirectly, any pecuniary benefit upon a
13 public servant with the intent to influence the public
14 servant's vote, opinion, judgment, exercise of
15 discretion, or other action in the public servant's
16 official capacity; or

17 (b) While a public servant, the person solicits, accepts,
18 or agrees to accept, directly or indirectly, any
19 pecuniary benefit with the intent that the person's
20 vote, opinion, judgment, exercise of discretion, or



1 other action as a public servant will thereby be
2 influenced.

3 (2) It is a defense to a prosecution under subsection (1)
4 that the accused conferred or agreed to confer the pecuniary
5 benefit as a result of extortion or coercion.

6 (3) For purposes of this section, "public servant"
7 includes in addition to persons who occupy the position of
8 public servant as defined in section [710-1000], persons who
9 have been elected, appointed, or designated to become a public
10 servant although not yet occupying that position.

11 (4) [~~Bribery~~] Subject to subsection (5), bribery is a
12 class B felony.

13 (5) Bribery is a class A felony if the person who commits
14 the offense of bribery pursuant to subsection (1)(b) is a person
15 whose salary is subject to recommendation by the commission on
16 salaries pursuant to section 26-56.

17 (6) A person convicted of violating this section,
18 notwithstanding any law to the contrary, shall not be eligible
19 for a deferred acceptance of guilty plea or nolo contendere plea
20 under chapter 853."



1 SECTION 6. (a) There is established a public employee
2 corruption and bribery task force under the state ethics
3 commission.

4 (b) The task force shall consist of thirteen members and
5 shall include:

6 (1) The executive director of the state ethics commission,
7 or the director's designee, who shall serve as the
8 chair of the task force;

9 (2) Two members appointed by the president of the senate;

10 (3) Two members appointed by the speaker of the house of
11 representatives;

12 (4) Two members appointed by the chief justice of the
13 supreme court;

14 (5) Two members appointed by the governor;

15 (6) Two members invited by the chair of the task force to
16 represent public sector labor unions; and

17 (7) Two members invited by the chair of the task force to
18 represent community groups or non-profit organizations
19 whose focus is on good government or transparency in
20 government.



1 (c) The task force shall investigate the prevention of
2 corruption and bribery among public servants not subject to the
3 commission on salaries. Specifically, the task force shall
4 focus upon:

5 (1) Increasing penalties for government employees in
6 positions whose salaries are not subject to
7 recommendation by the commission on salaries but who,
8 based upon the task force's determination, occupy
9 positions of influence in government affairs and
10 violate the law in their official capacities; and

11 (2) Adjusting salary levels of those government employees
12 identified in paragraph (1) to maintain competition
13 with private sector equivalents in order to deter the
14 persons in those positions from engaging in bribery
15 and corruption.

16 (d) The members of the task force shall serve without
17 compensation. No member of the task force shall be made subject
18 to section 84-17, Hawaii Revised Statutes, solely because of
19 that member's participation on the task force.

20 (e) The state ethics commission shall provide
21 administrative and clerical support required by the task force.



1 (f) The task force shall submit a report of its findings
2 and recommendations, including any proposed legislation, to the
3 legislature no later than twenty days prior to the convening of
4 the regular session of 2021.

5 (g) The task force shall dissolve on June 30, 2021.


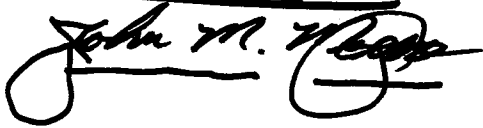
6 SECTION 8. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

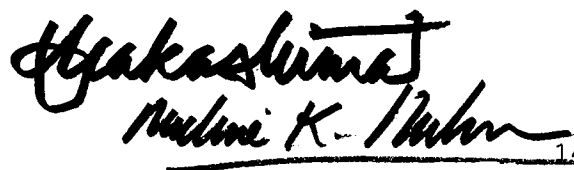
9 SECTION 9. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect upon its approval;
12 provided that section 2 of this Act shall take effect upon the
13 ratification of a constitutional amendment requiring a court to
14 order the board of trustees of the employees' retirement system
15 to withhold all or a portion of a public employee's benefits
16 when that court sentences that public employee for a felony
17 offense relating to that public employee's duties.

18

INTRODUCED BY: 



H.B. NO. 2748

Report Title:

Employees' Retirement System; Commission on Salaries; Bribery; Task Force

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. Makes ethics code violations a class A felony if the salary of the employee who commits the offense is subject to the recommendation of the Commission on Salaries. Increases the offense of bribery to a class A felony if the salary of the public servant who commits the offense to recommendation by the Commission on Salaries. Directs the Commission on Salaries to consider the deterrence of corruption and bribery by persons appointed to those positions. Creates a task force to investigate avenues to prevent corruption and bribery issues among public servants in positions of influence.

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

