
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 in 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 authorize the forfeiture of
21 certain employees' retirement system benefits, pursuant to court



1 order, for state or county employees and designated
2 beneficiaries who are convicted of an employment-related felony.

3 SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended
4 by adding a new section to subpart C of part II to be
5 appropriately designated and to read as follows:

6 "§88- Forfeiture of benefits; felony convictions. (a)

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

14 (1) Interest;

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

18 (3) Pension;

19 (4) Annuity; or

20 (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 that 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



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 2020. This section shall not apply to felonies committed



1 prior to the effective date of Act , Session Laws of Hawaii
2 2020.

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 3. 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 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 1, 2050;
12 provided that section 2 of this Act shall take effect on January
13 1, 2050, and the ratification of a constitutional amendment
14 requiring a court to order the board of trustees of the
15 employees' retirement system to withhold all or a portion of a
16 public employee's benefits when that court sentences that public
17 employee for a felony offense relating to that public employee's
18 duties.



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. Effective 1/1/2050. (HD1)

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

