

JAN 24 2019

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. The purpose of this Act is to establish a clear
2 statutory authority for the recovery of overpayments of
3 employees' retirement system benefits.

4 Specifically, this Act:

- 5 (1) Declares overpaid member benefits to be a debt due and
6 owing to the employees' retirement system;
- 7 (2) Authorizes the employees' retirement system to adopt
8 rules as necessary to recover overpaid member
9 benefits; and
- 10 (3) Provides the board of trustees or the executive
11 director of the employees' retirement system with the
12 discretion to waive the recovery of overpayments in
13 cases of bona fide hardship or where the costs of
14 recovery would exceed the amount expected to be
15 recovered.

16 SECTION 2. Section 88-6, Hawaii Revised Statutes, is
17 amended to read as follows:



1 "§88-6 Payment of refunds and retirement benefits. (a)

2 Notwithstanding any other provision of this chapter:

3 (1) All retirees and beneficiaries of the state retirement
4 system or county pension funds shall be paid
5 semimonthly; provided that:

6 (A) All retirees and beneficiaries of the state
7 retirement system who either retire or become
8 beneficiaries after January 1, 2003, shall be
9 paid monthly; and

10 (B) Effective July 1, 2011, all retirees and
11 beneficiaries of the state retirement system
12 shall be paid monthly; provided that this
13 subparagraph shall not apply to any retiree or
14 beneficiary who:

15 (i) Became a retiree or beneficiary prior to
16 January 1, 2003;

17 (ii) Is eighty years of age or older on January
18 1, 2011; and

19 (iii) Receives \$800 or less of pension benefits
20 each month; and



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1 (2) Any retiree or beneficiary of the state retirement
2 system whose benefit commences after June 30, 2001,
3 shall designate a financial institution account into
4 which the system shall be authorized to deposit their
5 retirement benefit; and effective April 1, 2011, all
6 retirees and beneficiaries of the state retirement
7 system shall designate a financial institution account
8 into which the system shall be authorized to deposit
9 their state retirement system benefits. This method
10 of payment may be waived by the system.

11 (b) Any member, former employee, retirant, or beneficiary
12 to whom accumulated contributions or a hypothetical account
13 balance, as defined in section 88-311, is payable after June 30,
14 2008, [~~shall,~~] if the payment will be greater than \$250 and the
15 member, former employee, retirant, or beneficiary does not elect
16 to rollover the payment into an eligible retirement plan, shall
17 designate a financial institution account into which the system
18 shall be authorized to deposit the payment. This method of
19 payment may be waived by the system if another method is
20 determined to be more appropriate.



1 (c) An overpayment of a refund or retirement benefit,
2 including the over-issuance of a death benefit, beneficiary
3 benefit, payment to an alternate payee, or adjustment payment
4 shall constitute a debt due and owing to the system by the
5 recipient of the overpayment; provided that:

6 (1) In addition to the remedies prescribed elsewhere in
7 this chapter for the recovery of benefits, recovery of
8 an overpayment shall be made to the extent allowable
9 by federal regulations; and

10 (2) Nothing in this section shall preclude the board of
11 trustees or the executive director of the system from
12 establishing procedures to waive the recovery of
13 overpayments in cases of bona fide hardship or where
14 the costs of recovery would exceed the amount expected
15 to be recovered.

16 (e) The system shall adopt rules pursuant to chapter 91 to
17 effectuate the maximum recovery of retirement benefit
18 overpayments, which shall prescribe procedures for:

19 (1) Recourse to the civil courts when required;

20 (2) The filing of liens against the real property of
21 overpaid recipients; and



1 (3) The filing of claims against the estate of a deceased
2 recipient who has received overpayments that have not
3 be recovered."

4 SECTION 3. Section 88-106, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§88-106 Correction of errors. Should any change or error
7 in records result in any member, retirant, or beneficiary
8 receiving from the system more or less than the member,
9 retirant, or beneficiary would have been entitled to receive had
10 the records been correct, the board of trustees shall correct
11 the error and as far as practicable, shall adjust the payments
12 in [~~such~~] a manner that the actuarial equivalent of the benefit
13 to which the member, retirant, or beneficiary was correctly
14 entitled shall be paid. Should any error in calculation or
15 records result in any member, retirant, or beneficiary receiving
16 from the system more than the member, retirant, or beneficiary
17 would have been entitled to receive had the calculation or
18 records been correct, the board of trustees shall correct the
19 error and [~~may forgive~~] shall recover [~~any such~~] the
20 overpayment [-] unless recovery is waived pursuant to procedures
21 adopted under section 88-6."



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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Employees' Retirement System; Recovery of Retirement Benefit Overpayments

Description:

Authorizes the Employees' Retirement System to recover overpaid benefit payments. Requires the Employees' Retirement System to adopt rules to effectuate the maximum recovery of overpayments. Allows the Board of Trustees or the Executive Director of the Employees' Retirement System to waive the recovery of an overpayment in cases of bona fide hardship or where the costs of recovery would exceed the amount expected to be recovered.

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