

S.B. NO. 1207

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 bill is to establish a
2 clear statutory basis for the recovery of overpayments of
3 employees' retirement system (the "system") benefits. This bill
4 declares overpaid member benefits to be a debt due and owing to
5 the system and authorizes the system to promulgate and enforce
6 such rules and regulations as may be necessary to recover
7 overpaid member benefits. In addition, this bill provides the
8 board of trustees or the executive director of the system with
9 the discretion to waive the recovery of overpayments in cases of
10 bona fide hardship or where the costs of recovery would exceed
11 the amount expected to be recovered.

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

14 "§88-6 Payment of refunds and retirement benefits. (a)
15 Notwithstanding any other provision of this chapter:

S.B. NO. 1207

- 1 (1) All retirees and beneficiaries of the state retirement
2 system or county pension funds shall be paid
3 semimonthly; provided that:
- 4 (A) All retirees and beneficiaries of the state
5 retirement system who either retire or become
6 beneficiaries after January 1, 2003, shall be
7 paid monthly; and
- 8 (B) Effective July 1, 2011, all retirees and
9 beneficiaries of the state retirement system
10 shall be paid monthly; provided that this
11 subparagraph shall not apply to any retiree or
12 beneficiary who:
- 13 (i) Became a retiree or beneficiary prior to
14 January 1, 2003;
- 15 (ii) Is eighty years of age or older on January
16 1, 2011; and
- 17 (iii) Receives \$800 or less of pension benefits
18 each month; and
- 19 (2) Any retiree or beneficiary of the state retirement
20 system whose benefit commences after June 30, 2001,
21 shall designate a financial institution account into
22 which the system shall be authorized to deposit their
23 retirement benefit; and effective April 1, 2011, all

S.B. NO. 1207

1 retirees and beneficiaries of the state retirement
2 system shall designate a financial institution account
3 into which the system shall be authorized to deposit
4 their state retirement system benefits. This method
5 of payment may be waived by the system.

6 (b) Any member, former employee, retirant, or beneficiary
7 to whom accumulated contributions or a hypothetical account
8 balance, as defined in section 88-311, is payable after June 30,
9 2008, shall, if the payment will be greater than \$250 and the
10 member, former employee, retirant, or beneficiary does not elect
11 to rollover the payment into an eligible retirement plan,
12 designate a financial institution account into which the system
13 shall be authorized to deposit the payment. This method of
14 payment may be waived by the system if another method is
15 determined to be more appropriate.

16 (c) All overpayments of refunds and retirement benefits,
17 including but not limited to the over issuance of death
18 benefits, beneficiary benefits, payments to alternate payees,
19 and adjustment payments shall constitute a debt due and owing to
20 the system by the recipient of such overpayments. In addition
21 to the remedies elsewhere prescribed in this chapter for the
22 recovery of benefits, recovery of all overpayments shall be made
23 to the extent allowable by federal regulations. The system

S.B. NO. 1207

1 shall adopt and enforce such rules as may be necessary to effect
2 the maximum recovery of retirement benefit overpayments. System
3 rules for the recovery of overpayments shall prescribe
4 procedures for recourse to the civil courts when required, the
5 filing of liens against the real property of overpaid
6 recipients, and the filing of claims against the estate of a
7 deceased recipient who has received overpayments that have not
8 been recovered. Nothing in this section shall preclude the
9 board of trustees or the executive director of the system from
10 promulgating procedures for waiving the recovery of overpayments
11 in cases of bona fide hardship or where the costs of recovery
12 would exceed the amount expected to be recovered."

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

15 "**§88-106 Correction of errors.** Should any change or error
16 in records result in any member, retirant, or beneficiary
17 receiving from the system more or less than the member,
18 retirant, or beneficiary would have been entitled to receive had
19 the records been correct, the board of trustees shall correct
20 the error and as far as practicable, shall adjust the payments
21 in such a manner that the actuarial equivalent of the benefit to
22 which the member, retirant, or beneficiary was correctly
23 entitled shall be paid. Should any error in calculation or

S.B. NO. 1207

1 records result in any member, retirant, or beneficiary receiving
2 from the system more than the member, retirant, or beneficiary
3 would have been entitled to receive had the calculation or
4 records been correct, the board of trustees shall correct the
5 error and [~~may forgive~~] shall recover any such overpayment [-]
6 unless recovery is waived pursuant to procedures adopted under
7 section 88-6."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: W. H. C. J.

13

BY REQUEST

S.B. NO. 1207

Report Title:

Employees' Retirement System; Recovery of Retirement Benefit Overpayments

Description:

Authorizes the Employees' Retirement System to recover overpaid benefit payments.

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: This bill authorizes the ERS to promulgate and enforce such rules and regulations as may be necessary to recover overpaid member benefits which the bill also declares to be a debt due and owing to the ERS.

MEANS: Amend sections 88-6 and 88-106, Hawaii Revised Statutes

JUSTIFICATION: This bill amends Sections 88-6 and 88-106 to declare that overpaid member benefits are a debt due and owing to ERS and to authorize the ERS to make rules for and to collect overpaid benefit payments to the extent allowable by federal regulations.

Impact on the public: None.

Impact on the department and other agencies: Would facilitate collection of overpaid benefits. Would help address ERS's unfunded liabilities.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.