



## HAWAI‘I STATE ETHICS COMMISSION

State of Hawai‘i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai‘i 96813

Committee: Committee on Judiciary and Hawaiian Affairs

Bill Number: S.B. 912, S.D. 1, H.D. 1

Hearing Date/Time: March 24, 2021, 2:30 p.m.

Re: Testimony of the Hawai‘i State Ethics Commission  
**SUPPORTING THE INTENT** of S.B. 912, S.D. 1, H.D. 1  
Relating to the Employees’ Retirement System

Dear Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee on Judiciary and Hawaiian Affairs:

The Hawai‘i State Ethics Commission (“Commission”) supports the intent of S.B. 912, S.D. 1, H.D. 1 which seeks to impose additional penalties – forfeiture of retirement benefits – for government officials who commit employment-related felonies.

The Commission supports additional penalties for extreme abuses of power. This measure will provide an additional deterrent to those few state employees who may seek to use their official positions, and the power of their offices, to commit employment-related felonies. The Commission agrees that such a severe consequence – forfeiture of retirement benefits – should come only after conviction of criminal activity.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on S.B. 912, S.D. 1, H.D. 1.

Very truly yours,

Kee Campbell  
Staff Attorney

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 JUDICIARY AND HAWAIIAN AFFAIRS  
ON  
SENATE BILL NO. 912, S.D. 1, H.D. 1**

**March 24, 2021  
2:30 P.M.  
Conference Room 325**

**RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM**

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee,

S.B. 912, S.D. 1, H.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 a portion of ERS benefits if the member, former member, or retirant is convicted of an employment-related felony. On behalf of its Board of Trustees, the ERS staff offers the following comments:

This proposal would require the ERS to comply with a court order decreeing a forfeiture of one-half 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 by the State or County.

Further, S.B. 912, S.D. 1, H.D. 1 allows the court to order, upon the death of the convicted member, former member or retirant, that the beneficiary receive comparably reduced benefits to which the beneficiary may have otherwise been entitled. Further, if the beneficiary had been convicted of the same felony as the ERS member, former member or retirant under this section, the beneficiary would receive no beneficiary benefits.

As this proposal would require the ERS to comply with a court order declaring a forfeiture of retirement benefits based on these types of felony convictions and does not impair benefits that have already been accrued, the ERS Board is supportive of this method of forfeiture.

Thank you for this opportunity to provide testimony.



Employees' Retirement System  
of the State of Hawaii

Statement Before The  
**HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

Tuesday, March 23, 2021

2:00 PM

Via Video Conference, Conference Room 325

in consideration of  
**SB 912, SD1, HD1**  
**RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.**

Chair NAKASHIMA, Vice Chair MATAYOSHI, and Members of the House Judiciary & Hawaiian Affairs Committee

Common Cause Hawaii supports SB 912, SD1, HD1, which (1) authorizes a court to order the forfeiture of one half of the employees' retirement system (ERS) benefits of an ERS member, former member, or retiree upon conviction of the individual for a felony related to the state or county employment of the individual, (2) authorizes designated beneficiaries to receive the ERS benefits to which the member, former member, or retiree would be entitled under this section upon the death of the member, former member, or retiree, (3) prohibits designated beneficiaries convicted of a felony under the same set of circumstances as the member, former member, or retiree who was subject to forfeiture of ERS benefits from receiving benefits.

According to a Honolulu Star-Advertiser article published March 17, 2021, "Hawaii is among 13 states that doesn't allow pensions to be revoked when a public worker is convicted of a felony, according to research published last year by the National Association of State Retirement Administrators." See <https://www.staradvertiser.com/2021/03/17/hawaii-news/lawmakers-look-to-claw-back-felons-pensions/>.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy. Common Cause Hawaii works to restore faith in our government and our democracy that has been shattered in the last few years through ethics, accountability, and transparency reforms. These reforms are probably the most important tools to restoring the people's trust in their elected leaders and government – to show people that their government is acting for the people's interest versus serving their own interests.

In a Honolulu Star-Advertiser poll published on Sept. 22, 2019, a majority of local residents felt that Hawaii's elected officials do not care what they think and generally do not have high ethical standards. This must change for people to have confidence in our government. See <https://www.staradvertiser.com/2019/09/22/hawaii-news/most-hawaii-residents-say-state-elected-officials-dont-care-about-them/>. Further, Oahu residents stated accountability was "essential or very important for the city to address in the next two years" in a 2019 Service Efforts & Accomplishments Report by the Office of the City Auditor. See [http://www.honolulu.gov/rep/site/oca/oca\\_docs/a-FY2019\\_SEA\\_Report\\_Final\\_030620\\_for\\_website.pdf](http://www.honolulu.gov/rep/site/oca/oca_docs/a-FY2019_SEA_Report_Final_030620_for_website.pdf) at page 6 (emphasis in original).

SB 912, SD1, HD1 will show that government takes ethics seriously. Public employees are also public servants. They cannot defraud the public and destroy our confidence in government and still reap the benefits of their criminal misconduct. If this were to occur, then the people and democracy will suffer.

SB 912, SD1, HD1 is **not** about punishment or retribution. It is about ethics and restoring the public's trust in government. SB 912, SD1, HD1 is not about revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 912, SD1, HD1 provides that, upon the convicted governmental employees' passing, their pensions may be awarded to the designated beneficiaries. Due process is afforded, and pension is only forfeited pursuant to court order, under SB 912, SD1, HD1.

In these difficult economic times for our state, Hawaii cannot afford (both literally and figuratively) the pensions of individuals who have defrauded this state and betrayed the public trust.

Much concern is given to what the convicted government employee (and the employee's family) may lose if the pension were to be lost. We also need to consider that much is lost by the public - the people - when a government employee abuses his/her/their position of power, trust, and authority. As we have seen, democracy is fragile; people need to have confidence in our government. Please act to restore that trust through ethics reform.

Thank you for the opportunity to testify in support of SB 912, SD1, HD1, and Common Cause Hawaii respectfully urges the Committee members to pass SB 912, SD1, HD1 out of your Committee. If you have further questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii



**SB-912-HD-1**

Submitted on: 3/22/2021 7:21:36 PM

Testimony for JHA on 3/24/2021 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow	Individual	Support	No

Comments:

The public has long been incensed that state and county employees who are convicted of employment related felonies are allowed to collect their ERS benefits. Public employees are public servants. They should not be allowed to defraud us and still collect the benefits of their criminal misconduct. This is your chance to restore the public's faith in government, in its elected and appointed officials.

Please support this bill.

**SB-912-HD-1**

Submitted on: 3/22/2021 9:17:54 PM

Testimony for JHA on 3/24/2021 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Individual	Support	No

Comments:

Aloha Senators,

I support SB 912 SD 1 HD 1.

Mahalo,

Michael Golojuch, Jr.

**SB-912-HD-1**

Submitted on: 3/23/2021 5:46:08 AM

Testimony for JHA on 3/24/2021 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Anderson	Individual	Support	No

Comments:

Hawaii is among 13 states that doesn't allow pensions to be revoked when a public worker is convicted of a felony, according to research published last year.

In a poll published in September 2019, a majority of local residents felt that Hawaii's elected officials do not care what they think and generally do not have high ethical standards. This must change for people to have confidence in our government. Further, in 2019, Oahu residents stated accountability was "essential or very important for the city to address in the next two years,"

SB 912, SD1, HD1 will show that government takes ethics seriously. Public employees are also public servants. They cannot defraud the public and destroy our confidence in government and still reap the benefits of their criminal misconduct. If this were to occur, then the people and democracy will suffer.

SB 912, SD1, HD1 is about ethics and restoring the public's trust in government. and is not about punishment, retribution or revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 912, SD1, HD1 provides that, upon the convicted governmental employees' passing, their pensions may be awarded to the designated beneficiaries. Due process is afforded, and pension is only forfeited pursuant to court order, under SB 912, SD1, HD1.

We also need to consider that much is lost by the public - the people - when a government employee abuses his/her/their position of power, trust, and authority. As we have seen, democracy is fragile; people need to have confidence in our government. Please act to restore that trust through ethics reform.

Thank you for the opportunity to submit testimony in support of this bill.

**SB-912-HD-1**

Submitted on: 3/23/2021 10:29:25 AM

Testimony for JHA on 3/24/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Nakashima, Vice Chair Matayoshi, and Committee on Judiciary and Hawaiian Affairs,

Please support SB912 SD1 and HD1.

If an employee at a for-profit company was convicted for a felony, that for-profit company would not hesitate to fire that employee. A for-profit company would not want to risk losing its reputation or tarnishing its image for fear of losing customers, contracted vendors and stockholders. The same could be said for non-profit organizations. These are real life consequences to illegal actions.

SB 912, SD1, HD1 is **not** about punishment or retribution. It is about ethics and restoring the public's trust in government. SB 912, SD1, HD1 is not about revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 912, SD1, HD1 provides that, upon the convicted governmental employees' passing, their pensions may be awarded to the designated beneficiaries. Due process is afforded, and pension is only forfeited pursuant to court order, under SB 912, SD1, HD1.

Thank you for taking the time to review this bill. I appreciate the opportunity to provide testimony in support of SB912 SD1 HD1.

Mahalo,

Caroline Kunitake



**SB-912-HD-1**

Submitted on: 3/23/2021 12:55:47 PM

Testimony for JHA on 3/24/2021 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Donna Ambrose	Individual	Support	No

Comments:

Public employees should know they cannot defraud the public and still reap the benefits of their illegal conduct. We, the people they serve, pay their salaries and pension benefits. It's not too much to ask that those pensions be garnished or forfeited if a government employee is convicted of a crime and a court orders the action. Heirs of the guilty party may still receive benefits upon his/her passing, which I find quite generous. Please help restore confidence in those in positions of power and authority by passing this bill. Mahalo.

## **SB-912-HD-1**

Submitted on: 3/23/2021 1:32:11 PM

Testimony for JHA on 3/24/2021 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
tlaloc tokuda	Individual	Support	No

Comments:

Dear JHA Committee Members,

- This is a good bill because it says that no one is above the law.
- According to a Honolulu Star-Advertiser article published March 17, 2021, “Hawaii is among 13 states that doesn’t allow pensions to be revoked when a public worker is convicted of a felony, according to research published last year by the National Association of State Retirement Administrators.” See <https://www.staradvertiser.com/2021/03/17/hawaii-news/lawmakers-look-to-claw-back-felons-pensions/>.
- In a Honolulu Star-Advertiser poll published on Sept. 22, 2019, a majority of local residents felt that Hawaii’s elected officials do not care what they think and generally do not have high ethical standards. This must change for people to have confidence in our government. See <https://www.staradvertiser.com/2019/09/22/hawaii-news/most-hawaii-residents-say-state-elected-officials-dont-care-about-them/>. Further, Oahu residents stated accountability was “essential or very important for the city to address in the next two years” in a 2019 Service Efforts & Accomplishments Report by the Office of the City Auditor. See [http://www.honolulu.gov/rep/site/oca/oca\\_docs/a-FY2019\\_SEA\\_Report\\_Final\\_030620\\_for\\_website.pdf](http://www.honolulu.gov/rep/site/oca/oca_docs/a-FY2019_SEA_Report_Final_030620_for_website.pdf) at page 6 (emphasis in original).
- SB 912, SD1, HD1 will show that government takes ethics seriously. Public employees are also public servants. They cannot defraud the public and destroy our confidence in government and still reap the benefits of their criminal misconduct. If this were to occur, then the people and democracy will suffer.
- SB 912, SD1, HD1 is **not** about punishment or retribution. It is about ethics and restoring the public’s trust in government. SB 912, SD1, HD1 is not about revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 912, SD1, HD1 provides that, upon the convicted governmental employees’ passing, their pensions may be awarded to the designated beneficiaries. Due process is afforded, and pension is only forfeited pursuant to court order, under SB 912, SD1, HD1.
- Much concern is given to what the convicted government employee (and the employee’s family) may lose if the pension were to be lost. We also need to consider that much is lost by the public - the people - when a government

employee abuses his/her/their position of power, trust, and authority. As we have seen, democracy is fragile; people need to have confidence in our government. Please act to restore that trust through ethics reform.

Mahalo for your consideration,

Tlaloc Tokuda

Kailua Kona, HI 96740

**SB-912-HD-1**

Submitted on: 3/24/2021 4:04:57 AM

Testimony for JHA on 3/24/2021 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jake Jacobs	Individual	Support	No

Comments:

It is outrageous that Hawaii is one of thirteen states that doesn't allow pensions to be revoked when a public worker is convicted of a felony. It is especially outrageous when that crime was committed against the very people funding that pension. It sends a message of impunity for malfeasance by public officials. This should not be allowed to continue if we want to have ethical officials.