

Statement Before The
SENATE COMMITTEE ON LABOR, CULTURE & THE ARTS
Monday, February 8, 2021
3:00 PM
Conference Room 225

in consideration of
SB 912
RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

Chair TANIGUCHI, Vice Chair IHARA, and Members of the Senate Labor, Culture & The Arts Committee

Common Cause Hawaii supports SB 912, which (1) authorizes a court to order the forfeiture of Employees' Retirement System (ERS) benefits of an ERS member, former member, or retirant upon conviction of the individual for a felony related to the State or county employment of the individual and (2) authorizes designated beneficiaries to receive ERS benefits upon the death of the ERS member, former member, or retirant convicted of the felony.

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 at page 6 (emphasis in original).

SB 912 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 only losers are the people and democracy.

SB 912 is **not** about punishment or retribution. It is about ethics and restoring the public's trust in government. SB 912 is not about revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 912 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.

In these dire 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, and Common Cause Hawaii respectfully urges the Committee members to pass SB 912 out of your Committee. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



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 SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
ON
SENATE BILL NO. 912**

**February 8, 2021
3:00 P.M.
Conference Room 225**

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

Chair Taniguchi, Vice Chair Ihara, and Members of the Committee,

S.B. 912 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 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. Further, S.B. 912 allows the court to order, upon the death of the convicted member, former member or retirant, that the beneficiary receive one-half of the benefits to which the beneficiary may have otherwise been entitled. On behalf of the ERS Board of Trustees, we offer the following comments and concerns:

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, the ERS board is supportive of this fair and judicial method of forfeiture decisions.

We have concerns, however, that the reduction of beneficiary benefits under Section 2, to "one-half" the benefit "to which the beneficiary would otherwise be entitled under this chapter," may not effectuate the bill's intent.



Employees' Retirement System
of the State of Hawaii

Your committee report during the 2020 session on a similar proposal, S.B. 2402, noted “strong constitutional concerns” regarding the “effect of the forfeiture of retirement benefits on the beneficiaries of the retiree,” (see SSCR28857).

Beneficiary benefits differ in accordance with the benefit the member or former member would receive or, in the case of the retirant, the optional method of retirement selected. If the intent of S.B. 912 is to preserve the full benefit to which the beneficiary is entitled to receive, your committee may want to amend the “one-half” in Section 2, 88-____(a) as noted below:

"§88-____ Forfeiture of benefits; felony convictions.

(a) If a member, former member, or retirant is convicted of a felony and the court finds that the felony is related to the employment of the member, former member, or retirant by the State or any county, the court may order, as a civil penalty pursuant to section 706-605(8), a forfeiture by the member, former member, or retirant of one-half of any:

(1) Interest;

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

(3) Pension;

(4) Annuity; or

(5) Retirement allowance,

to which the member, former member, or retirant may otherwise be entitled under this chapter; provided that upon the death of the member, former member, or retirant, the designated beneficiary of the member, former member, or retirant may receive ~~one-half~~ benefits to which the beneficiary would otherwise be entitled under this chapter; provided further that the designated beneficiary was not also convicted of a felony based on the same set of circumstances as the member, former member, or retirant penalized under this section.

This would allow the beneficiary’s benefit to remain unimpaired unless the beneficiary was convicted for the same felony as the ERS member, former member or retirant, in which case, the order could apply to both.

With this committee’s consideration of S.B. 912’s intended effect on beneficiary benefits, the ERS Board of Trustees would be supportive of this Act should it be approved.

Thank you for this opportunity to provide testimony.

SB-912

Submitted on: 2/7/2021 11:08:35 PM

Testimony for LCA on 2/8/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Individual	Support	No

Comments:

Aloha Senators,

I support SB 912.

Mahalo,

Michael Golojuch, Jr.

SB-912

Submitted on: 2/7/2021 9:30:44 AM

Testimony for LCA on 2/8/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
tlaloc tokuda	Individual	Support	No

Comments:

I am a member of Common Cause HI and i agree with their position on SB912.

SB 912 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 only losers are the people and democracy.

SB 912 is not about punishment or retribution. It is about ethics and restoring the public's trust in government. SB 912 is not about revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 912 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.

Mahalo for your consideration,

Tlaloc Tokuda

Kailua Kona HI 96740

SB-912

Submitted on: 2/6/2021 10:57:54 PM

Testimony for LCA on 2/8/2021 3:00:00 PM

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

Comments:

Dear Chair Taniguchi, Vice Chair Ihara and Committee on Labor, Culture and the Arts,

Please support SB912. We need serious consequence for public employees who are convicted of an employment-related felony. The general public deserve to have elected officials and public employees who are upstanding citizens that follow and uphold the law.

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 at page 6 (emphasis in original).

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In these dire 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, and we respectfully urge the Committee members to pass SB 912 out of your Committee.

Mahalo,

Caroline Kunitake

SB-912

Submitted on: 2/7/2021 8:35:27 AM

Testimony for LCA on 2/8/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
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

Submitted on: 2/7/2021 8:03:57 AM

Testimony for LCA on 2/8/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dyson Chee	Individual	Support	No

Comments:

Thank you for the opportunity to testify in support of SB912.

SB-912

Submitted on: 2/6/2021 10:23:09 PM

Testimony for LCA on 2/8/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara J. Service	Individual	Support	No

Comments:

Please pass SB912, to deny benefits to retired state employees if they have been convicted of felonies regarding their employment.

Mahalo!

Barbara J. Service MSW (ret.)

Senior Advocate