

ACT 53

H.B. NO. 981

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to establish a clear statutory basis for the recovery of overpayments of employees' retirement system benefits. This Act declares overpaid member benefits to be a debt due and owing to the employees' retirement system and authorizes the employees' retirement system to adopt and enforce such rules and regulations as may be necessary to recover overpaid member benefits. In addition, this Act provides the board of trustees or the executive director of the employees' retirement system with the discretion to waive the recovery of overpayments in cases of bona fide hardship or where the costs of recovery would exceed the amount expected to be recovered.

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

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

- (1) All retirees and beneficiaries of the state retirement system or county pension funds shall be paid semimonthly; provided that:
 - (A) All retirees and beneficiaries of the state retirement system who either retire or become beneficiaries after January 1, 2003, shall be paid monthly; and
 - (B) Effective July 1, 2011, all retirees and beneficiaries of the state retirement system shall be paid monthly; provided that this subparagraph shall not apply to any retiree or beneficiary who:
 - (i) Became a retiree or beneficiary prior to January 1, 2003;
 - (ii) Is eighty years of age or older on January 1, 2011; and
 - (iii) Receives \$800 or less of pension benefits each month; and
- (2) Any retiree or beneficiary of the state retirement system whose benefit commences after June 30, 2001, shall designate a financial institution account into which the system shall be authorized to deposit their retirement benefit; and effective April 1, 2011, all retirees and beneficiaries of the state retirement system shall designate a financial institution account into which the system shall be authorized to deposit their state retirement system benefits. This method of payment may be waived by the system.

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

(c) All overpayments of refunds and retirement benefits, including but not limited to the over issuance of death benefits, beneficiary benefits, payments to alternate payees, and adjustment payments, shall constitute a debt due and owing to the system by the recipient of such overpayments. In addition to the remedies elsewhere prescribed in this chapter for the recovery of benefits, recovery of all overpayments shall be made in accordance with applicable state law and federal regulations. The system shall adopt and enforce rules as may be

necessary to effect the maximum recovery of retirement benefit overpayments. System rules for the recovery of overpayments shall prescribe procedures for recourse to the civil courts when required, the filing of liens against the real property of overpaid recipients, and the filing of claims against the estate of a deceased recipient who has received overpayments that have not been recovered. Nothing in this section shall preclude the board of trustees or the executive director of the system from adopting procedures for waiving the recovery of overpayments in cases of bona fide hardship or where the costs of recovery would exceed the amount expected to be recovered.”

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

“§88-106 Correction of errors. Should any change or error in records result in any member, retirant, or beneficiary receiving from the system more or less than the member, retirant, or beneficiary would have been entitled to receive had the records been correct, the board of trustees shall correct the error and as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which the member, retirant, or beneficiary was correctly entitled shall be paid. Should any error in calculation or records result in any member, retirant, or beneficiary receiving from the system more than the member, retirant, or beneficiary would have been entitled to receive had the calculation or records been correct, the board of trustees shall correct the error and [may forgive] shall recover any such overpayment[-] unless recovery is waived pursuant to procedures adopted under section 88-6.”

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

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

(Approved June 7, 2019.)