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GOVERNOR



THOMAS WILLIAMS  
EXECUTIVE DIRECTOR

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**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. 2402**

**February 4, 2020**

**2:45 P.M.**

**Conference Room 224**

**RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM**

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

S.B. 2402 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 all or a portion 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. The Board of Trustees of the ERS has not yet had the opportunity to review this legislation, however the ERS staff offers the following comments:

This proposal would require the ERS to comply with a court order decreeing a forfeiture of all or a portion of any interest, hypothetical account balance, pension, annuity or retirement allowance otherwise payable a member, former member, or retirant of the system convicted of a felony that the court finds is related to the employment of the member, former member, or retirant by the State or county.



Employees' Retirement System  
of the State of Hawaii

This proposal purports to not impair or diminish the accrued retirement benefits of members of the ERS prior to the effective date of the Act and applies prospectively to felonies committed by public employees after the effective date of the proposal.

As proposed, staff believes S.B. 2402 would not be opposed by the ERS Board of Trustees.

Thank you for this opportunity to provide testimony.

Statement Before The  
**SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS**Tuesday, February 4, 2020  
2:45 PM  
State Capitol, Conference Room 224in consideration of  
**SB 2402**  
**RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.**

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

Common Cause Hawaii supports SB 2402, which would authorize (1) 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) 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 recent [Honolulu Star-Advertiser poll](#) published on Sept. 22, 2019, a majority of local residents feel 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.

SB 2402 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 2402 is **not** about punishment or retribution. It is about ethics and restoring the public's trust in government. SB 2402 is not about revenge, because families of the convicted governmental employees who rely on the pensions are protected under the bill. SB 2402 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 2402.

Much concern is given to what may be lost by a convicted government employee. We also need to consider that much is lost by the public - the people - when a government employee abuses his/her 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 2402, and Common Cause Hawaii respectfully urges the Committee members to pass SB 2402 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





**ADA**

**HAWAII**

AMERICANS FOR DEMOCRATIC ACTION

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February 2, 2020

TO: Chair Taniguchi and members of LCA Committee

RE: SB 2402 Relating to the Employees Retirement System.

Support for hearing on February 4

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 2748 as it would authorize the forfeiture of certain employees' retirement system benefits. We believe this bill will begin to show that our government is working to solve the issues of self-dealing and abuse of office by public servants. Unfortunately many people have that impression

Thank you for your favorable consideration.

Sincerely,  
John Bickel, President



**SB-2402**

Submitted on: 2/3/2020 12:13:53 PM

Testimony for LCA on 2/4/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Shimei	Testifying for Indivisible Hawaii	Support	No

Comments:

In SUPPORT

Public trust in government is low and sinking lower. In these trying times, it is critical to restore confidence in the ethics of our government.

Holding an office of public trust is not the same as a job in the private sector. We cannot endorse the deliberate abuse of government power by permitting retention of a benefit paid by taxpayer dollars, at the expense of the people the government was created to serve.

The corruption addressed in this bill is rare but it clearly does exist and all steps must be taken to eradicate it.

Thank you for your consideration.

Barbara Shimei

**SB-2402**

Submitted on: 2/1/2020 11:57:46 AM

Testimony for LCA on 2/4/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karin Nomura	Individual	Support	No

Comments:

I would hope this applied to every party that is held at a higher standard, has the public's trust, paid through public funds, duty to uphold the integrity and standards of their station, yet conducted or used their position to commit crimes.

**SB-2402**

Submitted on: 2/2/2020 11:24:11 PM

Testimony for LCA on 2/4/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Brian Taniguchi and Members of the Committee on Labor, Culture and the Arts,

I am writing in support of SB2402.

SB 2402 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 2402 is not about punishment or retribution. It is about ethics and restoring the public's trust in government. SB 2402 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 2402.

These state employee benefits are funded with tax payer dollars. Therefore it is vital for our state government to ensure that tax payer dollars are spent wisely while serving the public's interest. Public servants are not above the law and must be held to standards of justice. If not, public servants who are convicted of crimes in a court of law will still be financially rewarded. We need bills like SB 2402 to become law to serve as a deterrent for government corruption.

Mahalo,

Caroline Kunitake



**SB-2402**

Submitted on: 2/3/2020 12:52:47 AM

Testimony for LCA on 2/4/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Edward B Hanel Jr	Individual	Support	No

Comments:

Concur with Common Cause Hawaii support for SB 2402.

If enacted, this bill would authorize (1) 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) designated beneficiaries to receive ERS benefits upon the death of the ERS member, former member, or retirant convicted of the felony.

I also recommend that the committee considering revising complete forfeiture of ERS benefits to a forfeiture of benefits for the period of employment that involved criminal activity. This approach would help blunt legal challenges contending that complete forfeiture is an excessive fine under the 8th Amendment to the US Constitution. Such an approach better matches the penalty to the crime.

**SB-2402**

Submitted on: 2/3/2020 5:20:44 AM

Testimony for LCA on 2/4/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Best	Individual	Support	No

Comments:

**SB-2402**

Submitted on: 2/3/2020 8:22:21 AM

Testimony for LCA on 2/4/2020 2:45:00 PM

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

Comments:

Please accept this as testimony in strong support of SB 2404 which would allow for forfeiture of benefits due to felony convictions. These criminals, former public employees, should not be feeding at the public trough. Everytime there is a news story about this behavior, the public is incensed. If you do the crime you do not get off scott free, you do ot take taxpasyer money.