

STAND. COM. REP. NO.

2857

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 2402
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 2402 entitled:

"A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM,"

begs leave to report as follows:

The purpose and intent of this measure is to require the Employees' Retirement System to comply with a court decree for the forfeiture of all of any portion of the retirement benefits if a member is convicted of a felony that the court finds to be related to the employment of the member. The compliance by the retirement system would continue until the retirement system receives another court decree that orders resumption of the retirement payments, or until the death of the retiree, at which time the retiree's designated beneficiary would be entitled to receive the retirement benefits of the deceased retiree.

Your Committee received testimony in support of this measure from the Common Cause Hawaii, Americans for Democratic Action, and six individuals. Your Committee received comments on this measure from the Employees' Retirement System.

Your Committee notes that the Employees Retirement System understands the purpose of the measure, but that the Board of Trustees of the Employee Retirement System has not yet reviewed the measure.

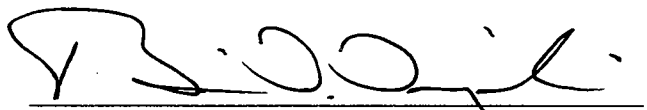


Your Committee has strong constitutional concerns with the effect and application of article XVI, section 2 of the Constitution of the State of Hawaii as it may relate to this measure and with the effect of the measure on the beneficiaries who are related to the retiree and who would be dependent on the retirement benefits to be forfeited. Notwithstanding your Committee's constitutional concern, your Committee believes that imposing a civil penalty against a person who commits a felony by using the person's position of authority in government in which the felony is directly related to the person's responsibility and duties is worthy of further discussion. Your Committee finds merit in passing this measure to encourage further discussion.

Your Committee, having concerns of the effect of the forfeiture of retirement benefits on the beneficiaries of the retiree, has amended the measure to allow a court to order the forfeiture of one-half of the retiree's benefits and to allow the designated beneficiaries to receive one-half of the benefits after the death of the retiree who had committed the felony.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2402, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2402, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,



BRIAN T. TANIGUCHI, Chair



