

JAN 18 2019

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended
2 by adding a new section to subpart C of part II to be
3 appropriately designated and to read as follows:

4 "§88- Forfeiture of benefits; felony convictions. (a)

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

11 (1) Interest;

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

15 (3) Pension;

16 (4) Annuity; or

17 (5) Retirement allowance,



1 to which the member, former member, or retirant may otherwise be
2 entitled under this chapter; provided that upon the death of the
3 member, former member, or retirant, the designated beneficiary
4 of the member, former member, or retirant may receive benefits
5 to which the beneficiary would otherwise be entitled under this
6 chapter.

7 (b) Upon receipt of a certified copy of the order
8 decreeing forfeiture, the system shall comply with the order and
9 shall reduce, suspend, or deny payment to the member, former
10 member, or retirant as provided in the order until such time as
11 the system receives a certified order to:

12 (1) Increase, resume, or make payments to the member,
13 former member, or retirant; or

14 (2) Quash or reverse the order of forfeiture.

15 The system shall not be required to make inquiry into the
16 propriety of the order of forfeiture or recoup any payments made
17 to the member, former member, or retirant prior to receipt by
18 the system of the order of forfeiture.

19 (c) For the purposes of this section, a felony is "related
20 to the employment" of an employee of the State or a county if



1 the employee uses or attempts to use the employee's official
2 position to commit the felony, including:

3 (1) Felonies in which state or county time, equipment, or
4 other facilities are used in the commission of the
5 felony;

6 (2) Bribery;

7 (3) Embezzlement, theft, or other unlawful taking,
8 receiving, retaining, or failing to account properly
9 for any property or funds that belong to the State or
10 any county or any department, bureau, board, or other
11 agency thereof; or

12 (4) A felony committed against a person over whom the
13 employee, in the course of the employee's duties,
14 exercises custody or supervision.

15 (d) This section shall not impair or diminish benefits
16 accrued prior to the effective date of this section.

17 (e) This section shall not apply to accrued retirement
18 benefits that are nonforfeitable pursuant to sections 88-73(f),
19 88-281(g), and 88-331(f)."



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1 SECTION 2. This Act does not affect rights and duties that
 2 matured, penalties that were incurred, and proceedings that were
 3 begun before its effective date.

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 496

Report Title:

Employees' Retirement System; Retirement Benefits; Felony Convictions; Forfeiture

Description:

Authorizes a court to order the forfeiture of Employees' Retirement System 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. Authorizes designated beneficiaries to receive ERS benefits upon the death of the ERS member, former member, or retirant convicted of the felony.

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