

JAN 26 2011

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT.

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

1 SECTION 1. Section 78-2.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§78-2.8[+] **Public employees; termination.** (a) If a
4 public employee is convicted of a felony for conduct related to
5 the public employee's duties, the public employee shall be
6 terminated from the public employee's position.

7 (b) The period of time between the earliest date that the
8 felony conduct occurred, as determined by the trier of fact or
9 pursuant to an admission of the public employee in a criminal
10 prosecution, and the date that employment was terminated
11 pursuant to subsection (a) shall not be included in the
12 calculation of the employee's credited service for purposes of
13 eligibility for benefits pursuant to chapter 88. If the felony
14 conviction that results in the termination of a public employee
15 pursuant to subsection (a) is overturned on appeal, there shall
16 be no deduction of time from the calculation of credited service
17 pursuant to this subsection.



1 ~~[(b)]~~ (c) If the felony conviction that results in the
2 termination of a public employee pursuant to subsection (a) is
3 overturned on appeal, the public employee shall receive back pay
4 and be returned to the position the public employee held prior
5 to conviction, or an equivalent position if the public
6 employee's position was filled; provided that the employee is
7 not terminated from the employee's position in accordance with
8 any other provision of law.

9 ~~[(e)]~~ (d) For purposes of this section:

- 10 (1) "Public employee" means any public employee of the
11 State or any county, and the political subdivisions
12 and agencies thereof, any employees under contract
13 with the State or county, any civil service employees,
14 and any probationary or provisional employees of the
15 State or county;
- 16 (2) Employees covered by chapter 89 shall be entitled to a
17 grievance procedure culminating in a final and binding
18 decision; and
- 19 (3) A rebuttable presumption shall arise that the criminal
20 conviction is just and proper cause for the employee's
21 termination."



1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect upon ratification of
4 an amendment to article XVI, section 2, of the Constitution of
5 the State of Hawaii to allow a member's accrued pension benefits
6 in the employees' retirement system to be diminished or
7 impaired.

8

INTRODUCED BY:

Clarena N. Hishikawa



Report Title:

Public Employees; Criminal Conviction

Description:

Deducts the period of time between the earliest instance of criminal conduct by a public employee and criminal conviction for the conduct from the calculation of credited service for purposes of pension benefits calculation.

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