A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The purpose of this bill is to establish a clear statutory basis for the recovery of overpayments of employees' retirement system (the "system") benefits. This bill declares overpaid member benefits to be a debt due and owing to the system and authorizes the system to promulgate and enforce such rules and regulations as may be necessary to recover overpaid member benefits. In addition, this bill provides the board of trustees or the executive director of the 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, 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 to the extent allowable by federal regulations. The system
shall adopt and enforce such 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
promulgating 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.
Report Title:
Employees' Retirement System; Recovery of Retirement Benefit Overpayments

Description:
Authorizes the Employees' Retirement System to recover overpaid benefit payments.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM

PURPOSE: This bill authorizes the ERS to promulgate and enforce such rules and regulations as may be necessary to recover overpaid member benefits which the bill also declares to be a debt due and owing to the ERS.

MEANS: Amend sections 88-6 and 88-106, Hawaii Revised Statutes

JUSTIFICATION: This bill amends Sections 88-6 and 88-106 to declare that overpaid member benefits are a debt due and owing to ERS and to authorize the ERS to make rules for and to collect overpaid benefit payments to the extent allowable by federal regulations.

Impact on the public: None.

Impact on the department and other agencies: Would facilitate collection of overpaid benefits. Would help address ERS's unfunded liabilities.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.