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# 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. The purpose of this Act is to establish a clear  
2 statutory basis for the recovery of overpayments of employees'  
3 retirement system benefits. This Act declares overpaid member  
4 benefits to be a debt due and owing to the employees' retirement  
5 system and authorizes the employees' retirement system to adopt  
6 and enforce such rules and regulations as may be necessary to  
7 recover overpaid member benefits. In addition, this Act  
8 provides the board of trustees or the executive director of the  
9 employees' retirement system with the discretion to waive the  
10 recovery of overpayments in cases of bona fide hardship or where  
11 the costs of recovery would exceed the amount expected to be  
12 recovered.

13           SECTION 2. Section 88-6, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "§88-6 Payment of refunds and retirement benefits. (a)  
16 Notwithstanding any other provision of this chapter:



1 (1) All retirees and beneficiaries of the state retirement  
2 system or county pension funds shall be paid  
3 semimonthly; provided that:

4 (A) All retirees and beneficiaries of the state  
5 retirement system who either retire or become  
6 beneficiaries after January 1, 2003, shall be  
7 paid monthly; and

8 (B) Effective July 1, 2011, all retirees and  
9 beneficiaries of the state retirement system  
10 shall be paid monthly; provided that this  
11 subparagraph shall not apply to any retiree or  
12 beneficiary who:

13 (i) Became a retiree or beneficiary prior to  
14 January 1, 2003;

15 (ii) Is eighty years of age or older on  
16 January 1, 2011; and

17 (iii) Receives \$800 or less of pension benefits  
18 each month; and

19 (2) Any retiree or beneficiary of the state retirement  
20 system whose benefit commences after June 30, 2001,  
21 shall designate a financial institution account into



1           which the system shall be authorized to deposit their  
2           retirement benefit; and effective April 1, 2011, all  
3           retirees and beneficiaries of the state retirement  
4           system shall designate a financial institution account  
5           into which the system shall be authorized to deposit  
6           their state retirement system benefits. This method  
7           of payment may be waived by the system.

8           (b) Any member, former employee, retirant, or beneficiary  
9           to whom accumulated contributions or a hypothetical account  
10          balance, as defined in section 88-311, is payable after June 30,  
11          2008, [~~shall,~~] if the payment will be greater than \$250 and the  
12          member, former employee, retirant, or beneficiary does not elect  
13          to rollover the payment into an eligible retirement plan, shall  
14          designate a financial institution account into which the system  
15          shall be authorized to deposit the payment. This method of  
16          payment may be waived by the system if another method is  
17          determined to be more appropriate.

18          (c) All overpayments of refunds and retirement benefits,  
19          including but not limited to the over issuance of death  
20          benefits, beneficiary benefits, payments to alternate payees,  
21          and adjustment payments, shall constitute a debt due and owing



1 to the system by the recipient of such overpayments. In  
2 addition to the remedies elsewhere prescribed in this chapter  
3 for the recovery of benefits, recovery of all overpayments shall  
4 be made in accordance with applicable state law and federal  
5 regulations. The system shall adopt and enforce rules as may be  
6 necessary to effect the maximum recovery of retirement benefit  
7 overpayments. System rules for the recovery of overpayments  
8 shall prescribe procedures for recourse to the civil courts when  
9 required, the filing of liens against the real property of  
10 overpaid recipients, and the filing of claims against the estate  
11 of a deceased recipient who has received overpayments that have  
12 not been recovered. Nothing in this section shall preclude the  
13 board of trustees or the executive director of the system from  
14 adopting procedures for waiving the recovery of overpayments in  
15 cases of bona fide hardship or where the costs of recovery would  
16 exceed the amount expected to be recovered."

17 SECTION 3. Section 88-106, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§88-106 **Correction of errors.** Should any change or error  
20 in records result in any member, retirant, or beneficiary  
21 receiving from the system more or less than the member,



1   retirant, or beneficiary would have been entitled to receive had  
2   the records been correct, the board of trustees shall correct  
3   the error and as far as practicable, shall adjust the payments  
4   in such a manner that the actuarial equivalent of the benefit to  
5   which the member, retirant, or beneficiary was correctly  
6   entitled shall be paid. Should any error in calculation or  
7   records result in any member, retirant, or beneficiary receiving  
8   from the system more than the member, retirant, or beneficiary  
9   would have been entitled to receive had the calculation or  
10  records been correct, the board of trustees shall correct the  
11  error and [~~may forgive~~] shall recover any such overpayment[-]  
12  unless recovery is waived pursuant to procedures adopted under  
13  section 88-6."

14         SECTION 4. Statutory material to be repealed is bracketed  
15  and stricken. New statutory material is underscored.

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



**Report Title:**

ERS; Retirement Benefit Overpayments; Recovery

**Description:**

Specifies that overpayments of refunds and retirement benefits constitute a debt due and owing to the ERS by recipients of overpayments. Authorizes the ERS to adopt and enforce rules to recover retirement benefit overpayments. Authorizes waiver of recovery in cases of hardship or where the costs of recovery exceed the amount to be recovered. (HB981 CD1)

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