

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO RETIREMENT SAVINGS.

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

1       SECTION 1. The legislature finds that there is an imminent  
2 retirement security crisis in the State, as many individuals do  
3 not have access to an employer-sponsored retirement plan.  
4 Individuals without a retirement plan are at significant risk of  
5 not having enough retirement income to meet basic expenses  
6 during retirement. A retirement savings plan can help employees  
7 achieve economic security, improve economic mobility, and reduce  
8 wealth disparity.

9       In 2017, Oregon was the first state to implement a  
10 retirement saving plan that covers private sector workers who do  
11 not otherwise have access to a savings plan provided by their  
12 employer. With many small businesses operating in Oregon, the  
13 state calculated that it had more than one million employers who  
14 did not offer any form of retirement savings. The plan was  
15 actually adopted earlier in 2015, as the Obama administration  
16 tried to encourage states to promote retirement savings. Other



1 states have similar programs including California, Connecticut,  
2 Illinois, Maryland, Massachusetts, New Jersey, and Vermont.

3 The legislature also finds that individuals need a lifelong  
4 savings system that provides them with the opportunity to build  
5 their assets and attain future financial stability. Private  
6 sector employees with access to employer-sponsored retirement  
7 plans provides a reliable way to accumulate savings needed for a  
8 secure retirement.

9 The legislature further finds that approximately fifty per  
10 cent of the State's private sector employees work for an  
11 employer that does not offer a retirement plan or are not  
12 eligible for the plan offered. The lack of opportunity to  
13 participate in an employer-provided retirement plan spans all  
14 levels of education and earnings. Employees of Hawaii  
15 businesses with fewer than one hundred employees are much less  
16 likely to have access to a retirement plan than employees of  
17 larger businesses. Employees who are offered the opportunity to  
18 save through the employee's place of employment are  
19 significantly more likely to participate and make steady  
20 contributions to build retirement savings.



1       The purpose of this Act is to establish a Hawaii retirement  
2 savings board to administer the Hawaii retirement savings plan  
3 for private sector employees.

4       SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7                               "CHAPTER

8                               HAWAII RETIREMENT SAVINGS PLAN

9       § -1 Definitions. As used in this chapter, unless the  
10 context otherwise requires:

11       "Board" means the Hawaii retirement savings board.

12       "Plan" means the Hawaii retirement savings plan.

13       § -2 Hawaii retirement savings board; establishment.

14       (a) There is established within the department of budget and  
15 finance for administrative purposes the Hawaii retirement  
16 savings board.

17       (b) The board shall consist of the following nine members:

18           (1) The director of finance or the director's designee;

19           (2) The director of commerce and consumer affairs or the  
20 director's designee;

21           (3) The comptroller or the comptroller's designee;



(4) A member of the senate to be selected by the president of the senate;

(5) A member of the house of representatives to be selected by the speaker of the house of representatives;

(6) A representative of the employees' retirement system to be selected by the governor pursuant to section 26-34;

(7) A representative of the Chamber of Commerce Hawaii to be selected by the governor pursuant to section 26-34; and

(8) Two members from the small business industry to be selected by the governor pursuant to section 26-34.

(d) The representative of the employees' retirement system, the representative of the Chamber of Commerce Hawaii, and the members from the small business industry shall serve terms of        years; provided that such members shall serve no more than        consecutive terms. The senate member shall serve at the pleasure of the senate president. The member of the house of representatives shall serve at the pleasure of the



1 speaker of the house of representatives. All other members  
2 shall serve in an ex officio capacity.

3 (e) The members of the board shall serve without pay but  
4 shall be entitled to reimbursement for necessary expenses,  
5 including travel and board and lodging expenses, while attending  
6 meetings of the board or when actually engaged in business  
7 relating to the work of the board.

8 (f) The director of finance or the director's designee  
9 shall serve as chairperson of the board.

10 (g) The board may employ, without regard to chapter 76,  
11 staff necessary for the performance of its functions and fix  
12 their compensation.

13 **§ -3 Duties of the board.** The board shall:

- 14 (1) Establish, implement, and maintain the Hawaii  
15 retirement savings plan pursuant to section -4;  
16 (2) Adopt rules for the general administration of the plan  
17 as provided in section -5;  
18 (3) Direct the investment of the funds contributed to  
19 accounts in the plan consistent with the investment  
20 restrictions established by the board; provided that  
21 the restrictions shall be consistent with the



1 objectives of the plan and the board shall exercise  
2 the judgement and care then prevailing that persons of  
3 prudence, discretion, and intelligence exercise in the  
4 management of their own affairs with due regard to the  
5 probable income and level of risk from certain types  
6 of investments of money, in accordance with the  
7 policies established by the board;

8 (4) Collect application, account, or administrative fees  
9 to assist the costs of administering the plan;

10 (5) Make and enter into contracts, agreements, or  
11 arrangements, and retain, employ, and contract for any  
12 of the following considered necessary or desirable,  
13 for carrying out the purposes set forth by this  
14 chapter:

15 (A) Services for private and public financial  
16 institutions, depositories, consultants,  
17 investment advisers, investment administrators,  
18 and third-party plan administrators;

19 (B) Research, technical, and other services;

20 (C) Services of other state agencies to assist the  
21 board in its duties;



1 (6) Evaluate the need for, and procure as needed, pooled  
2 private insurance of the plan; and

3 (7) Develop and implement an outreach plan to gain input  
4 and disseminate information regarding the plan and  
5 retirement savings in general.

6 § -4 Establishment of the Hawaii retirement savings  
7 plan. (a) There is established the Hawaii retirement savings  
8 plan to be administered by the board, which shall:

9 (1) Allow eligible individuals employed for compensation  
10 in the State to contribute to an account established  
11 under the plan through payroll deduction;

12 (2) Require an employer to offer its employees the  
13 opportunity to the plan through payroll deductions  
14 unless the employer offers a qualified retirement  
15 plan, including but not limited to a plan qualified  
16 under section 401(a), section 401(k), section 403(a),  
17 section 403(b), section 408(k), section 408(p), or  
18 section 457(b) of the Internal Revenue Code of 1986,  
19 as amended;

20 (3) Provide automatic enrollment of employees and allow  
21 employees to opt out of the plan;



- 1 (4) Offer a default contribution rate set by the board;
- 2 (5) Offer default escalation of contribution levels that
- 3 can be increased or decreased within the limits
- 4 allowed by the Internal Revenue Code of 1986, as
- 5 amended;
- 6 (6) Provide contributions to the plan to be deposited
- 7 directly with the investment administrator for the
- 8 plan;
- 9 (7) Whenever possible, use existing employer and public
- 10 infrastructure to facilitate contributions to the
- 11 plan, recordkeeping, and outreach;
- 12 (8) Require no employer contributions to employee
- 13 accounts;
- 14 (9) Require the maintenance of separate records and
- 15 account for each plan account;
- 16 (10) Provide reports on the status of plan accounts to be
- 17 provided to plan participants at least annually;
- 18 (11) Allow account owners to maintain an account regardless
- 19 of place of employment and to roll over funds into
- 20 other retirement accounts;





- 1       (12) Pool accounts established under the plan for  
2               investment;
- 3       (13) Be professionally managed;
- 4       (14) Provide that the State and employers that participate  
5               in the plan have no proprietary interest in the  
6               contributions to or earnings on amounts contributed to  
7               accounts established under the plan;
- 8       (15) Provide that the investment administrator for the plan  
9               is the trustee of all contributions and earnings on  
10              amounts contributed to accounts established under this  
11              plan;
- 12       (16) Does not impose any duties under the Employee  
13              Retirement Income Security Act of 1974, as amended, on  
14              employers;
- 15       (17) Keep administration fees in the plan low;
- 16       (18) Allow the use of private sector partnerships to  
17              administer and invest the contributions to the plan  
18              under the supervision and guidance of the board; and
- 19       (19) Allow employers to establish an alternative retirement  
20              plan for some or all employees.



(b) The plan, the board, each board member, and the State shall not guarantee any rate of return or any interest rate on any contribution; provided that the plan, the board, each board member, and the State may not be liable for any loss incurred by any person as a result of participating in the plan.

§ -5 Rules. The board shall adopt rules, pursuant to chapter 91, necessary for the purposes of this chapter.

§ -6 Confidentiality. Individual account information for accounts under this plan, including but not limited to names, addresses, telephone numbers, personal identification information, amounts contributed, shall be confidential and shall be maintained as confidential:

(1) Except to the extent necessary to administer the plan in a manner consistent with sections -2 to -8, the tax laws of the State, and the Internal Revenue Code of 1986, as amended; or

(2) Unless the person who provides the information or is the subject of the information expressly agrees in writing that the information may be disclosed.

§ -7 Hawaii retirement savings plan administrative fund.

(a) There is created in the state treasury a special fund to be



1 known as the Hawaii retirement savings plan administrative fund,  
2 into which shall be deposited:

- 3 (1) All interest collected under this chapter on and after  
4 the establishment of the plan;  
5 (2) Appropriations made by the legislature to the fund;  
6 (3) All fees collected as provided in section -3; and  
7 (4) Moneys transferred to the fund from the federal  
8 government, other state agencies, or local  
9 governments.

10 (b) The director of finance shall be the treasurer and  
11 custodian of the administrative fund.

12 (c) Moneys in the Hawaii retirement savings plan  
13 administrative fund shall be used to pay the administrative  
14 costs and expenses by the board and plan and for any other  
15 purpose described in sections -2 to -8.

16 § -8 **Annual report.** The board shall prepare an annual  
17 report detailing the board's activities for the previous fiscal  
18 year. The annual report shall be submitted to the governor and  
19 legislature no later than twenty days prior to the convening of  
20 each regular session of the legislature."



1       SECTION 3. (a) Before establishing the Hawaii retirement  
2 savings plan, the Hawaii retirement savings board established  
3 pursuant to section 2 of this Act shall:

4       (1) Conduct a market analysis to determine:

5           (A) The feasibility of the plan; and

6           (B) Whether and to what extent plans with the

7               characteristics described in section       -4,

8               Hawaii Revised Statutes, currently exist in the  
9               private market;

10       (2) Obtain legal advice regarding the applicability of the  
11           Employee Retirement Income Security Act of 1974, as  
12           amended, and the Internal Revenue Code of 1986, as  
13           amended, to the plan;

14       (3) Investigate whether employers that are not required to  
15           participate in the plan can make the plan available to  
16           their employees;

17       (4) Investigate how to allow individuals who are not  
18           automatically enrolled in the plan to opt in to the  
19           plan and make contributions to an account, either  
20           through payroll contributions or another method of  
21           contribution;



(5) Conduct an analysis of the potential costs to employers, including administrative costs, and costs associated with providing automatic payroll deductions for participation in the plan, as well as recommendations on how to eliminate or reduce those costs through incentives, tax credits, or other means;

(6) Prepare a timeline for implementation of the Hawaii retirement savings plan; and

(7) Make recommendations to the legislature regarding ways to increase financial literacy in the State.

(b) The report shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 2019.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2018-2019 to be deposited into the Hawaii retirement savings plan administrative fund.

SECTION 5. There is appropriated out of the Hawaii retirement savings plan administrative fund the sum of \$ or so much thereof as may be necessary for fiscal



1 year 2018-2019 for administrative and operating expenses for the  
2 Hawaii retirement savings board.

3 The sum appropriated shall be expended by the department of  
4 budget and finance for the purposes of this Act.

5 SECTION 6. This Act shall take effect on July 1, 2018;  
6 provided that the Hawaii retirement savings board established  
7 pursuant to section 2 of this Act shall establish the Hawaii  
8 retirement savings plan so that individuals may begin making  
9 contributions to the plan no later than July 1, 2020; provided  
10 further that if the board determines that the plan would qualify  
11 as an employee benefit plan under the Employee Retirement Income  
12 Security Act of 1974, as amended, the board shall not establish  
13 the plan.  
14

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# S.B. NO. 2333

**Report Title:**

Retirement Savings Plan; Retirement Savings Board; Private Sector; Appropriation

**Description:**

Establishes a retirement savings board to administer the Hawaii retirement savings plan. Establishes the Hawaii retirement savings plan administrative fund. Requires the board to report to the legislature before establishment of the Hawaii retirement savings plan. Requires the board to annually report to the governor and legislature. Appropriates funds.

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

