
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 eleven
18 members:

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

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



- 1 (3) The comptroller or the comptroller's designee;
- 2 (4) A member of the senate to be selected by the president
- 3 of the senate;
- 4 (5) A member of the house of representatives to be
- 5 selected by the speaker of the house of
- 6 representatives;
- 7 (6) A representative of the employees' retirement system
- 8 to be selected by the governor pursuant to section
- 9 26-34;
- 10 (7) A representative of the Chamber of Commerce Hawaii to
- 11 be selected by the governor pursuant to section 26-34;
- 12 (8) Two members from the small business industry to be
- 13 selected by the governor pursuant to section 26-34;
- 14 and
- 15 (9) Two representatives of the community, one to be
- 16 selected by the president of the senate and one to be
- 17 selected by the speaker of the house of
- 18 representatives.
- 19 (c) The representative of the employees' retirement
- 20 system, the representative of the Chamber of Commerce Hawaii,
- 21 and the members from the small business industry shall serve



1 terms of years; provided that such members shall serve no
2 more than consecutive terms. The senate member shall
3 serve at the pleasure of the senate president. The member of
4 the house of representatives shall serve at the pleasure of the
5 speaker of the house of representatives. All other members
6 shall serve in an ex officio capacity.

7 (d) The members of the board shall serve without pay but
8 shall be entitled to reimbursement for necessary expenses,
9 including travel and board and lodging expenses, while attending
10 meetings of the board or when actually engaged in business
11 relating to the work of the board.

12 (e) The director of finance or the director's designee
13 shall serve as chairperson of the board.

14 (f) The board may employ, without regard to chapter 76,
15 staff necessary for the performance of its functions and fix
16 their compensation.

17 § -3 Duties of the board. The board shall:

18 (1) Establish, implement, and maintain the Hawaii
19 retirement savings plan pursuant to section -4;

20 (2) Adopt rules for the general administration of the plan
21 as provided in section -5;



- 1 (3) Direct the investment of the funds contributed to
2 accounts in the plan consistent with the investment
3 restrictions established by the board; provided that
4 the restrictions shall be consistent with the
5 objectives of the plan and the board shall exercise
6 the judgement and care then prevailing that persons of
7 prudence, discretion, and intelligence exercise in the
8 management of their own affairs with due regard to the
9 probable income and level of risk from certain types
10 of investments of money, in accordance with the
11 policies established by the board;
- 12 (4) Collect application, account, or administrative fees
13 to assist the costs of administering the plan;
- 14 (5) Make and enter into contracts, agreements, or
15 arrangements, and retain, employ, and contract for any
16 of the following considered necessary or desirable,
17 for carrying out the purposes set forth by this
18 chapter:
- 19 (A) Services for private and public financial
20 institutions, depositories, consultants,



1 investment advisers, investment administrators,
2 and third-party plan administrators;

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

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

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

8 (7) Develop and implement an outreach plan to gain input
9 and disseminate information regarding the plan and
10 retirement savings in general.

11 **§ -4 Establishment of the Hawaii retirement savings**

12 **plan.** (a) There is established the Hawaii retirement savings
13 plan to be administered by the board, which shall:

14 (1) Allow eligible individuals employed for compensation
15 in the State to contribute to an account established
16 under the plan through payroll deduction;

17 (2) Require an employer to offer its employees the
18 opportunity to the plan through payroll deductions
19 unless the employer offers a qualified retirement
20 plan, including but not limited to a plan qualified
21 under section 401(a), section 401(k), section 403(a),



- 1 section 403(b), section 408(k), section 408(p), or
2 section 457(b) of the Internal Revenue Code of 1986,
3 as amended;
- 4 (3) Provide automatic enrollment of employees and allow
5 employees to opt out of the plan;
- 6 (4) Offer a default contribution rate set by the board;
- 7 (5) Offer default escalation of contribution levels that
8 can be increased or decreased within the limits
9 allowed by the Internal Revenue Code of 1986, as
10 amended;
- 11 (6) Provide contributions to the plan to be deposited
12 directly with the investment administrator for the
13 plan;
- 14 (7) Whenever possible, use existing employer and public
15 infrastructure to facilitate contributions to the
16 plan, recordkeeping, and outreach;
- 17 (8) Require no employer contributions to employee
18 accounts;
- 19 (9) Require the maintenance of separate records and
20 account for each plan account;



- 1 (10) Provide reports on the status of plan accounts to be
- 2 provided to plan participants at least annually;
- 3 (11) Allow account owners to maintain an account regardless
- 4 of place of employment and to roll over funds into
- 5 other retirement accounts;
- 6 (12) Pool accounts established under the plan for
- 7 investment;
- 8 (13) Be professionally managed;
- 9 (14) Provide that the State and employers that participate
- 10 in the plan have no proprietary interest in the
- 11 contributions to or earnings on amounts contributed to
- 12 accounts established under the plan;
- 13 (15) Provide that the investment administrator for the plan
- 14 is the trustee of all contributions and earnings on
- 15 amounts contributed to accounts established under this
- 16 plan;
- 17 (16) Does not impose any duties under the Employee
- 18 Retirement Income Security Act of 1974, as amended, on
- 19 employers;
- 20 (17) Keep administration fees in the plan low;



1 (18) Allow the use of private sector partnerships to
2 administer and invest the contributions to the plan
3 under the supervision and guidance of the board; and

4 (19) Allow employers to establish an alternative retirement
5 plan for some or all employees.

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

11 § -5 Rules. The board shall adopt rules, pursuant to
12 chapter 91, necessary for the purposes of this chapter.

13 § -6 Confidentiality. Individual account information
14 for accounts under this plan, including but not limited to
15 names, addresses, telephone numbers, personal identification
16 information, amounts contributed, shall be confidential and
17 shall be maintained as confidential:

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



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

4 § -7 Hawaii retirement savings plan administrative fund.

5 (a) There is established in the state treasury a special fund
6 to be known as the Hawaii retirement savings plan administrative
7 fund, into which shall be deposited:

8 (1) All interest collected under this chapter on and after
9 the establishment of the plan;

10 (2) Appropriations made by the legislature to the fund;

11 (3) All fees collected as provided in section -3; and

12 (4) Moneys transferred to the fund from the federal
13 government, other state agencies, or local
14 governments.

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

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



1 § -8 **Annual report.** The board shall prepare an annual
2 report detailing the board's activities for the previous fiscal
3 year. The annual report shall be submitted to the governor and
4 legislature no later than twenty days prior to the convening of
5 each regular session."

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

9 (1) Conduct a market analysis to determine:

10 (A) The feasibility of the plan; and

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

12 characteristics described in section -4,

13 Hawaii Revised Statutes, currently exist in the

14 private market;

15 (2) Obtain legal advice regarding the applicability of the

16 Employee Retirement Income Security Act of 1974, as

17 amended, and the Internal Revenue Code of 1986, as

18 amended, to the plan;

19 (3) Investigate whether employers that are not required to

20 participate in the plan can make the plan available to

21 their employees;



- 1 (4) Investigate how to allow individuals who are not
- 2 automatically enrolled in the plan to opt in to the
- 3 plan and make contributions to an account, either
- 4 through payroll contributions or another method of
- 5 contribution;
- 6 (5) Conduct an analysis of the potential costs to
- 7 employers, including administrative costs, and costs
- 8 associated with providing automatic payroll deductions
- 9 for participation in the plan, as well as
- 10 recommendations on how to eliminate or reduce those
- 11 costs through incentives, tax credits, or other means;
- 12 (6) Prepare a timeline for implementation of the Hawaii
- 13 retirement savings plan; and
- 14 (7) Make recommendations to the legislature regarding ways
- 15 to increase financial literacy in the State.

16 The Hawaii retirement savings board may issue a request for
17 proposals for a third party to conduct the market analysis.

18 (b) A preliminary report shall be submitted to the
19 legislature no later than twenty days prior to the convening of
20 the regular session of 2019, and a final report shall be



1 submitted to the legislature no later than twenty days prior to
2 the convening of the regular session of 2020.

3 (c) The department of budget and finance may adopt interim
4 rules exempt from the requirements of chapter 91, Hawaii Revised
5 Statutes, necessary to implement this section.

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

11 SECTION 5. There is appropriated out of the Hawaii
12 retirement savings plan administrative fund the sum of
13 \$ or so much thereof as may be necessary for fiscal
14 year 2018-2019 for administrative and operating expenses for the
15 Hawaii retirement savings board.

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

18 SECTION 6. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2018-2019 for
21 the market analysis under section 3 of this Act.



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

3 SECTION 7. This Act shall take effect on January 1, 2050;
4 provided that the Hawaii retirement savings board established
5 pursuant to section 2 of this Act shall establish the Hawaii
6 retirement savings plan so that individuals may begin making
7 contributions to the plan no later than July 1, 2021; provided
8 further that if the board determines that the plan would qualify
9 as an employee benefit plan under the Employee Retirement Income
10 Security Act of 1974, as amended, the board shall not establish
11 the plan.

12



Report Title:

Retirement Savings Plan; Retirement Savings Board; Private Sector; Market Analysis; 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. Requires a market analysis prior to establishment of the retirement savings plan. Gives the department of budget and finance interim rule making authority. Appropriates funds. (SD1)

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