

JAN 19 2024

A BILL FOR AN ACT

RELATING TO HAWAII RETIREMENT SAVINGS ACT.

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

1 SECTION 1. Section 389-4, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) The board shall have powers and duties in accordance
4 with law to:

5 (1) Establish, implement, and maintain the program;

6 (2) Cause the program and arrangements and accounts
7 established under the program to be designed,
8 established, and operated:

9 (A) In accordance with best practices for retirement
10 savings vehicles;

11 (B) To encourage participation, saving, sound
12 investment practices, and appropriate selection
13 of default investments;

14 (C) To maximize simplicity and ease of administration
15 for employers;

16 (D) To minimize costs, including by collective
17 investment and other measures to achieve



- 1 economies of scale and other efficiencies in
- 2 program design and administration;
- 3 (E) To promote portability of benefits; and
- 4 (F) To avoid preemption of the program by federal
- 5 law;
- 6 (3) Arrange for collective, common, and pooled investment
- 7 of assets of the program;
- 8 (4) Determine the eligibility of an employer, employee, or
- 9 other individual to participate in the program;
- 10 (5) Ensure the program's compliance with all applicable
- 11 laws and regulations;
- 12 (6) Establish procedures for the timely and fair
- 13 resolution of participant and other disputes related
- 14 to accounts or program operation;
- 15 (7) Develop and implement:
- 16 (A) An investment policy that defines the program's
- 17 investment objectives and that is consistent with
- 18 the objectives of the program; and
- 19 (B) Other policies and procedures consistent with
- 20 those investment objectives;



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- 1 (8) Cause expenses incurred to initiate, implement,
2 maintain, and administer the program to be paid from
3 the program and other available sources;
- 4 (9) Establish and collect application, account, and
5 administrative fees;
- 6 (10) Accept grants, gifts, donations, legislative
7 appropriations, loans, and other moneys from the
8 State, any unit of federal, state, or local
9 government, or any other person to defray the costs of
10 administering and operating the program;
- 11 (11) Enter into contracts pursuant to chapter 103D for
12 services that the board deems necessary to carry out
13 the purposes of this chapter, including:
 - 14 (A) Services of private and public financial
15 institutions, depositories, consultants,
16 actuaries, counsel, auditors, investment
17 advisors, investment administrators, investment
18 management firms, other investment firms, third-
19 party administrators, and other professionals and
20 service providers;



1 (B) Research, technical, financial, administrative,
2 and other services; and

3 (C) Services of other state agencies to assist the
4 board in the exercise of its powers and duties;

5 (12) Develop and implement an outreach plan to gain input
6 and disseminate information regarding the program and
7 retirement savings in general;

8 (13) Cause moneys to be held and invested and reinvested
9 under the program;

10 (14) Ensure that all contributions to individual retirement
11 accounts under the program may be used only to:

12 (A) Pay benefits to participants under the program;

13 (B) Pay the cost of administering the program; and

14 (C) Make investments for the benefit of the program;

15 provided that no assets of the program shall be

16 transferred to the general fund of the State or

17 to any other fund of the State or otherwise

18 encumbered or used for any purpose other than

19 those specified in this paragraph;

20 (15) Provide for the payment of costs of administration and
21 operation of the program;



- 1 (16) Evaluate the need for and, if the board deems
2 necessary, procure:
 - 3 (A) Insurance against any and all loss in connection
4 with the property, assets, or activities of the
5 program; and
 - 6 (B) Pooled private insurance;
- 7 (17) Indemnify, including procurement of insurance if and
8 as needed for this purpose, each board member from
9 personal loss or liability resulting from the member's
10 action or inaction as a board member;
- 11 (18) Collaborate with and evaluate the role of financial
12 advisors or other financial professionals, including
13 in assisting and providing guidance for covered
14 employees; [~~and~~]
- 15 (19) Reimburse, when appropriate, the general fund of the
16 State of Hawaii for the initial expenses incurred for
17 initiating, implementing, maintaining, and
18 administering the program; and
- 19 (20) Take any other action the board deems reasonably
20 necessary to carry out the purpose of this chapter.



1 (b) The board may develop and disseminate information
 2 designed to educate covered employees about the impacts of
 3 ~~[opting in to]~~ the program on take-home pay, savings strategies,
 4 and the benefits of planning and saving for retirement to help
 5 covered employees in deciding whether to participate and at what
 6 level participation may be appropriate."

7 SECTION 2. Section 389-5, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "[+]§389-5[+] Hawaii retirement savings program; due
 10 diligence; establishment; payroll deduction ~~[upon election to~~
 11 ~~contribute]~~. (a) There is established within the department,
 12 for administrative purposes only, a Hawaii retirement savings
 13 program. The program shall be administered by the board, in
 14 consultation with the department and the department of budget
 15 and finance. The board may determine the time frame for
 16 development and implementation of the program; provided that
 17 prior to implementation of the program, the board shall meet the
 18 requirements of subsections (b) and (c).

19 (b) Prior to implementation of the program, the board may
 20 conduct a detailed implementation and evaluation study and
 21 perform other due diligence tasks to determine the feasibility



1 of the program parameters established by this chapter and the
2 resources and time needed to implement the program. Upon
3 completion of the study, the board shall report its findings and
4 recommendations, including any proposed legislation and funding
5 requirements, to the legislature.

6 (c) Upon submittal of its report to the legislature
7 pursuant to subsection (b) and prior to implementation of the
8 program, the board may determine the level of staffing necessary
9 to implement the program, develop an implementation strategy and
10 timetable, and conduct outreach efforts to potential covered
11 employers and covered employees.

12 (d) ~~[Any covered employee may elect to contribute a~~
13 ~~portion of the employee's salary or wages to an individual~~
14 ~~retirement account provided by the program through payroll~~
15 ~~deduction.] Each covered employer shall enroll its covered~~
16 employs in the program and withhold payroll deduction
17 contributions from each covered employee's paycheck unless the
18 covered employee has elected not to contribute.

19 (e) Beginning on a date to be determined by the board
20 pursuant to subsection (a), a covered employer shall:



1 (1) ~~[Allow a]~~ Automatically enroll covered ~~[employee to~~
2 ~~enroll]~~ employees into the program after ~~[providing]~~
3 the program administrator provides the ~~[covered~~
4 ~~employee]~~ employees with a written notice of the
5 ~~[employee's]~~ right of the employees to opt ~~[in,]~~ out;
6 and

7 (2) For any covered employee who ~~[has opted in to]~~ is
8 enrolled into the program[+], a covered employer
9 shall:

10 (A) Withhold the covered employee's contribution
11 amount from the employee's salary or wages; and

12 (B) Transmit the covered employee's payroll deduction
13 contribution to the program on the earliest date
14 the amount withheld can reasonably be segregated
15 from the covered employer's assets, but no later
16 than the fifteenth day of the calendar month
17 following the month in which the covered
18 employee's contribution amounts are withheld.

19 (f) The program shall establish for each enrolled employee
20 a Roth IRA, into which the contributions deducted from ~~[an]~~ the
21 employee's payroll shall be deposited. The board may add an



1 option for all participants to affirmatively elect to contribute
2 to a traditional IRA in addition to a Roth IRA.

3 (g) The contributions to and earnings on the amounts
4 contributed to an employee's IRA under the program shall be
5 owned by the employee. The State and employers shall have no
6 proprietary interest in the contributions or earnings in an
7 employee's IRA.

8 (h) Covered employers shall not make contributions,
9 whether matching or not, to the program.

10 (i) The board may authorize matching contributions of up
11 to \$500 per participant account from the special fund for the
12 first 50,000 covered employees who participate in the program
13 for twelve consecutive months after initial enrollment."

14 SECTION 3. Section 389-14, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Any covered employer who fails to enroll a covered
17 employee into the program in accordance with section 389-5(e)(1)
18 without equitable justification shall be liable:

19 (1) To the covered employee, in an amount equal to the
20 contribution amount that would have been made by the
21 employee into the program and interest at a rate of



1 six per cent per year on the contribution amount,
 2 beginning from the date the contribution would have
 3 been made into the account; provided that the sum of
 4 the contribution amount and interest thereto shall be
 5 transmitted by the covered employer to the program to
 6 be paid into the covered employee's IRA; and

7 (2) A penalty of:

8 (A) \$25 for each month the covered employee was not
 9 enrolled in the program; and

10 (B) \$50 for each month the covered employee continues
 11 to be unenrolled in the program after the date on
 12 which a penalty has been assessed with respect to
 13 the covered employee who [~~had elected to~~
 14 participate] should have been enrolled in the
 15 program."

16 SECTION 4. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

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

19
 INTRODUCED BY: 

S.B. NO. 2666

Report Title:

Hawaii Retirement Savings Act; Hawaii Retirement Savings Program; Automatic Enrollment; Opt-Out Option

Description:

Requires covered employers to automatically enroll covered employees into the Hawaii Retirement Savings Program unless the employee chooses to opt out.

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