

JAN 17 2025

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. The purpose of this Act is to:

- 2 (1) Clarify the definition of "covered employer" in the
3 Hawaii Retirement Savings Act;
- 4 (2) Amend and align provisions of the Hawaii retirement
5 savings program, the state-facilitated
6 payroll-deduction retirement savings plan for private
7 sector employees in Hawaii who do not have access to
8 employer-sponsored retirement plans, to require
9 automatic enrollment unless the employee opts out;
- 10 (3) Repeal the limit on the total fees and expenses that
11 can be spent for the program each year; and
- 12 (4) Appropriate funds for the Hawaii retirement savings
13 program's development and operations.

14 SECTION 2. Section 389-2, Hawaii Revised Statutes, is
15 amended by amending the definition of "covered employer" to read
16 as follows:



1 "'Covered employer" means any person who is in business in
2 the State and has one or more individuals in employment.

3 "Covered employer" does not include:

4 (1) The United States;

5 (2) The State or any of its political subdivisions; or

6 (3) ~~[A person]~~ Any employer that has ~~[been maintaining]~~

7 offered or maintained a retirement plan for some or

8 all employees ~~[during]~~ at any time in the preceding

9 two years ~~[a retirement plan]~~ that is tax-qualified

10 under or is described in and satisfies the

11 requirements of section 401(a), 401(k), 403(a),

12 403(b), 408(k), or 408(p) of the Internal Revenue

13 Code."

14 SECTION 3. Section 389-4, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

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

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

19 (2) Cause the program and arrangements and accounts

20 established under the program to be designed,

21 established, and operated:



- 1 (A) In accordance with best practices for retirement
2 savings vehicles;
- 3 (B) To encourage participation, saving, sound
4 investment practices, and appropriate selection
5 of default investments;
- 6 (C) To maximize simplicity and ease of administration
7 for employers;
- 8 (D) To minimize costs, including by collective
9 investment and other measures to achieve
10 economies of scale and other efficiencies in
11 program design and administration;
- 12 (E) To promote portability of benefits; and
- 13 (F) To avoid preemption of the program by federal
14 law;
- 15 (3) Arrange for collective, common, and pooled investment
16 of assets of the program;
- 17 (4) Determine the eligibility of an employer, employee, or
18 other individual to participate in the program;
- 19 (5) Ensure the program's compliance with all applicable
20 laws and regulations;



- 1 (6) Establish procedures for the timely and fair
- 2 resolution of participant and other disputes related
- 3 to accounts or program operation;
- 4 (7) Develop and implement:
- 5 (A) An investment policy that defines the program's
- 6 investment objectives and that is consistent with
- 7 the objectives of the program; and
- 8 (B) Other policies and procedures consistent with
- 9 those investment objectives;
- 10 (8) Cause expenses incurred to initiate, implement,
- 11 maintain, and administer the program to be paid from
- 12 the program and other available sources;
- 13 (9) Establish and collect application, account, and
- 14 administrative fees;
- 15 (10) Accept grants, gifts, donations, legislative
- 16 appropriations, loans, and other moneys from the
- 17 State, any unit of federal, state, or local
- 18 government, or any other person to defray the costs of
- 19 administering and operating the program;



1 (11) Enter into contracts pursuant to chapter 103D for
2 services that the board deems necessary to carry out
3 the purposes of this chapter, including:

4 (A) Services of private and public financial
5 institutions, depositories, consultants,
6 actuaries, counsel, auditors, investment
7 advisors, investment administrators, investment
8 management firms, other investment firms, third-
9 party administrators, other professionals and
10 service providers;

11 (B) Research, technical, financial, administrative,
12 and other services; and

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

15 (12) Develop and implement an outreach plan to gain input
16 and disseminate information regarding the program and
17 retirement savings in general;

18 (13) Cause moneys to be held and invested and reinvested
19 under the program;

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



(A) Pay benefits to participants under the program;
(B) Pay the cost of administering the program; and
(C) Make investments for the benefit of the program;
provided that no assets of the program shall be
transferred to the general fund of the State or
to any other fund of the State or otherwise
encumbered or used for any purpose other than
those specified in this paragraph;

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

(16) Evaluate the need for and, if the board deems
necessary, procure:

(A) Insurance against any and all loss in connection
with the property, assets, or activities of the
program; and

(B) Pooled private insurance;

(17) Indemnify, including procurement of insurance if and
as needed for this purpose, each board member from
personal loss or liability resulting from the member's
action or inaction as a board member;



(18) Collaborate with and evaluate the role of financial advisors or other financial professionals, including in assisting and providing guidance for covered employees; ~~and~~

(19) Reimburse, when appropriate, the general fund of the State of Hawaii for the initial expenses incurred for initiating, implementing, maintaining, and administering the program; and

(20) Take any other action the board deems reasonably necessary to carry out the purpose of this chapter.

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

SECTION 4. Section 389-5, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:



1 "[~~f~~]~~\$389-5~~[~~f~~] Hawaii retirement savings program; due
2 diligence; establishment; payroll deduction [~~upon election to~~
3 ~~contribute~~]."

4 2. By amending subsections (d) through (f) to read:

5 "(d) [~~Any covered employee may elect to contribute a~~
6 ~~portion of the employee's salary or wages to an individual~~
7 ~~retirement account provided by the program through payroll~~
8 ~~deduction.~~] Each covered employer shall enroll its covered
9 employees in the program and withhold and remit payroll
10 deduction contributions from each covered employee's paycheck
11 unless the covered employee has elected not to participate.

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

14 (1) [~~Allow a~~] Automatically enroll covered [~~employee to~~
15 ~~enroll~~] employees into the program after [~~providing~~]
16 the program administrator provides the [~~covered~~
17 ~~employee~~] employees with a written notice of the
18 [~~employee's~~] right of the employees to opt [~~in,~~] out;
19 and



(2) For any covered employee who ~~[has opted in to]~~ is enrolled into the program[+] and has not opted out, a covered employer shall:

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

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

(f) The program shall establish for each enrolled employee a Roth IRA, into which the contributions deducted from ~~[an]~~ the employee's payroll shall be deposited. The board may add an option for all participants to affirmatively elect to contribute to a traditional IRA in addition to or in lieu of a Roth IRA."

SECTION 5. Section 389-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The program manager shall keep total fees and expenses as low as practicable~~[, provided that the total fees~~



~~1 and expenses of the program each year shall not exceed seventy~~
~~2 five basis points of the total assets of the program; provided~~
~~3 further that this limit shall not apply during the initial~~
~~4 three year period following the establishment of the program]."~~

5 SECTION 6. Section 389-14, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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

10 (1) To the covered employee, in an amount equal to the
11 contribution amount that would have been made by the
12 employee into the program and interest at a rate of
13 six per cent per year on the contribution amount,
14 beginning from the date the contribution would have
15 been made into the account; provided that the sum of
16 the contribution amount and interest thereto shall be
17 transmitted by the covered employer to the program to
18 be paid into the covered employee's IRA; and

19 (2) A penalty of:

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



1 (B) \$50 for each month the covered employee continues
2 to be unenrolled in the program after the date on
3 which a penalty has been assessed with respect to
4 the covered employee who [~~had elected to~~
5 ~~participate~~] should have been enrolled in the
6 program."

7 SECTION 7. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$720,000 or so much
9 thereof as may be necessary for fiscal year 2025-2026 and the
10 same sum or so much thereof as may be necessary for fiscal year
11 2026-2027 for the development and operation of the Hawaii
12 retirement savings program, including but not limited to
13 expenses for legal, outreach, communication, and marketing
14 services, and consultants, audits, and insurance.

15 The sums appropriated shall be expended by the department
16 of labor and industrial relations for the purposes of this Act.

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 2025.

20 INTRODUCED BY: 



Report Title:

DLIR; Hawaii Retirement Savings Act; Hawaii Retirement Savings Program; Covered Employer; Definition; Automatic Enrollment; Opt-Out Option; Appropriations

Description:

Clarifies the definition of "covered employer" under the Hawaii Retirement Savings Act. Requires covered employers to automatically enroll covered employees into the Hawaii Retirement Savings Program unless the employee chooses to opt out. Repeals the limit on the total fees and expenses that can be spent for the Program each year. Appropriates funds to the Department of Labor and Industrial Relations for the development and operation of the Program.

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

