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# 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; and

10      (3) Repeal the limit on the total fees and expenses that  
11      can be spent for the program each year.

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

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

17      "Covered employer" does not include:



- 1 (1) The United States;
- 2 (2) The State or any of its political subdivisions; or
- 3 (3) ~~[A person]~~ Any employer that has ~~[been maintaining]~~  
4 offered or maintained a retirement plan for some or  
5 all employees ~~[during]~~ at any time in the preceding  
6 two years ~~[a retirement plan]~~ that is tax-qualified  
7 under or is described in and satisfies the  
8 requirements of section 401(a), 401(k), 403(a),  
9 403(b), 408(k), or 408(p) of the Internal Revenue  
10 Code."

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

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

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

16 (2) Cause the program and arrangements and accounts  
17 established under the program to be designed,  
18 established, and operated:

19 (A) In accordance with best practices for retirement  
20 savings vehicles;



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



1 (7) Develop and implement:

2 (A) An investment policy that defines the program's  
3 investment objectives and that is consistent with  
4 the objectives of the program; and

5 (B) Other policies and procedures consistent with  
6 those investment objectives;

7 (8) Cause expenses incurred to initiate, implement,  
8 maintain, and administer the program to be paid from  
9 the program and other available sources;

10 (9) Establish and collect application, account, and  
11 administrative fees;

12 (10) Accept grants, gifts, donations, legislative  
13 appropriations, loans, and other moneys from the  
14 State, any unit of federal, state, or local  
15 government, or any other person to defray the costs of  
16 administering and operating the program;

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

20 (A) Services of private and public financial  
21 institutions, depositories, consultants,



1           actuaries, counsel, auditors, investment  
2           advisors, investment administrators, investment  
3           management firms, other investment firms, third-  
4           party administrators, other professionals and  
5           service providers;

6           (B) Research, technical, financial, administrative,  
7           and other services; and

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

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

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

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

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

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

19           (C) Make investments for the benefit of the program;  
20       provided that no assets of the program shall be  
21       transferred to the general fund of the State or



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



1 initiating, implementing, maintaining, and

2 administering the program; and

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

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

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

13 1. By amending its title to read:

14 "~~[§]§389-5[§]~~ **Hawaii retirement savings program; due**  
15 **diligence; establishment; payroll deduction** ~~[upon election to~~  
16 ~~contribute]~~."

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

18 "(d) ~~[Any covered employee may elect to contribute a~~  
19 ~~portion of the employee's salary or wages to an individual~~  
20 ~~retirement account provided by the program through payroll~~  
21 ~~deduction.]~~ Each covered employer shall enroll its covered



1 employees in the program and withhold and remit payroll  
2 deduction contributions from each covered employee's paycheck  
3 unless the covered employee has elected not to participate.

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

6 (1) [~~Allow a~~] Automatically enroll covered [~~employee to~~  
7 ~~enroll~~] employees into the program after [~~providing~~]  
8 the covered employer provides the [~~covered employee~~]  
9 employees with a written notice of the [~~employee's~~]  
10 right of the employees to opt [~~in~~] out; and

11 (2) For any covered employee who [~~has opted in to~~] is  
12 enrolled into the program[~~÷~~] and has not opted out:

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

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



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

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

9 "(b) The program manager shall keep total fees and  
10 expenses as low as practicable~~[-; provided that the total fees~~  
11 ~~and expenses of the program each year shall not exceed seventy-~~  
12 ~~five basis points of the total assets of the program; provided~~  
13 ~~further that this limit shall not apply during the initial~~  
14 ~~three-year period following the establishment of the program]."~~

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

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

20 (1) To the covered employee, in an amount equal to the  
21 contribution amount that would have been made by the



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

8 (2) A penalty of:

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

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

17 SECTION 7. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 2025.



**Report Title:**

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

**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 opts out. Repeals the limit on the total fees and expenses that can be spent for the Program each year. (CD1)

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

