ACT 92

H.B. NO. 1365

A Bill for an Act Relating to the State of Hawaii Deferred Compensation Plans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The State of Hawaii deferred compensation plan ("plan") was established under chapter 88E, Hawaii Revised Statutes, in or around 1983 to allow state and participating county employees who are members of the employees' retirement system to defer all or part of their compensation on a tax-deferred basis into the plan. The plan's board of trustees oversees the plan and selects the investment products that are offered to participants. Participants then voluntarily invest their deferred compensation in these investment products.

The plan for part-time, temporary, and seasonal or casual employees was established under chapter 88F, Hawaii Revised Statutes, in or around 1997, and requires all part-time, temporary, and seasonal or casual employees who are not members of the employees' retirement system to contribute seven and five-tenths per cent of their compensation on a tax-deferred basis into this plan in lieu of social security contributions. The board also oversees this plan and selects the investment products that are offered to participants. Because there is currently only one investment product offered in this plan, the mandatory participant contributions are all deposited into this investment product.

Since the inception of both plans, the securities industry has been constantly changing. New types of investment products are being created and offered to the public.

Although the current wording in sections 88E-9 and 88F-7, Hawaii Revised Statutes, is broad, these sections are being amended to make it clear that any other type of investment product that is commonly offered in the securities industry or other deferred compensation plans may be selected and offered in the plans (e.g., stocks, bonds, commingled group trusts, and separate accounts). These amendments are necessary to more clearly provide the board with sufficient authority to keep pace with the ever-changing securities industry, and to select and offer the best investment products to participants of both plans.

SECTION 2. Section 88E-9, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]§88E-9[~~]~~] Investments. <u>(a)</u> The board may create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred and for the administration of the plan. [~~Funds held by the board pursuant to a plan established under this chapter~~]

<u>(b) Participating employees</u> shall [~~be invested in accordance with~~] <u>invest their deferred compensation in the</u> investment products permitted under the plan; provided that [~~any investment contract entered into shall be made with~~] <u>the invest-</u>

ment products shall be provided by companies [~~authorized and~~] that are licensed to [~~do~~] provide investment products and transact business in the State. [~~Investment~~]

(c) The investment products [~~shall be limited to~~] may include annuities, life insurance, savings accounts, mutual funds, or [~~any combination thereof which~~] other types of investment products that are commonly offered in the securities industry or other deferred compensation plans and are determined by the board to be reasonably prudent investment products.

(d) The investment products shall have been reviewed and selected by the board after a competitive bidding process based on the specifications and considerations deemed appropriate by the board.

(e) The investments and investment products shall not be construed to be a prohibited use of general assets of the State.

(f) Nothing in this chapter shall be construed to permit any type of investment prohibited by law."

SECTION 3. Section 88F-7, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]§88F-7[~~]~~] Investments. (a) The board may create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred and for the administration of the plan. [~~Funds held by the board pursuant to a plan established under this chapter~~]

(b) Participating employees shall [~~be invested in accordance with~~] invest their deferred compensation in the investment products permitted under the plan; provided that [~~any investment contract entered into shall be made with~~] the investment products shall be provided by companies [~~authorized and~~] that are licensed to [~~do~~] provide investment products and transact business in the State. [~~Investment~~]

(c) The investment products [~~shall be limited to~~] may include annuities, life insurance, savings accounts, mutual funds, or [~~any combination thereof which~~] other types of investment products that are commonly offered in the securities industry or other deferred compensation plans and are determined by the board to be reasonably prudent investment products.

(d) The investment products shall have been reviewed and selected by the board after a competitive bidding process based on the specifications and considerations deemed appropriate by the board. [~~Investment~~]

(e) The investment products [~~must~~] shall guarantee a full return of principal.

(f) The investments and investment products shall not be construed to be a prohibited use of general assets of the State.

(g) Nothing in this chapter shall be construed to permit any type of investment prohibited by law."

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

SECTION 5. This Act shall take effect on July 1, 2008.

(Approved May 22, 2008.)