
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 require the legislative
2 reference bureau to conduct a study on the feasibility of
3 implementing a Hawaii retirement savings program for private
4 sector employees; to report to the legislature with its findings
5 and proposals, if any; and, if the results of the study support
6 it, to establish a Hawaii retirement savings board to administer
7 the Hawaii retirement savings program for private sector
8 employees.

9 SECTION 2. (a) Before establishing the Hawaii retirement
10 savings board and the Hawaii retirement savings program, the
11 legislative reference bureau shall:

- 12 (1) Conduct a market analysis to determine:
- 13 (A) The feasibility of the program; and
- 14 (B) Whether and to what extent plans or programs with
15 the characteristics described in section -4,
16 Hawaii Revised Statutes, currently exist in the
17 private market;
- 18 (2) Obtain legal advice regarding the applicability of the
19 Employee Retirement Income Security Act of 1974, as
20 amended, and the Internal Revenue Code of 1986, as
21 amended, to the program;



- 1 (3) Investigate whether employers that are not required to
2 participate in the program can make the program
3 available to their employees;
- 4 (4) Investigate methods to allow individuals who are not
5 automatically enrolled in the program to opt in to the
6 program and make contributions to an account, either
7 through payroll contributions or another method of
8 contribution;
- 9 (5) Conduct an analysis of the potential costs to
10 employers, including administrative costs, and costs
11 associated with providing automatic payroll deductions
12 for participation in the program, as well as
13 recommendations on how to eliminate or reduce those
14 costs through incentives, tax credits, or other means;
- 15 (6) Examine the potential effects of a state-run
16 retirement plan or program for private employees on
17 the private market;
- 18 (7) Examine states with other voluntary, market-based
19 plans or programs, including states such as New Jersey
20 and Washington;



1 (8) Prepare a timeline for implementation of the Hawaii
2 retirement savings program; and

3 (9) Make recommendations to the legislature regarding ways
4 to increase financial literacy in the State.

5 The legislative reference bureau may issue a request for
6 proposals for a third party to conduct the market analysis under
7 paragraph (1).

8 (b) A preliminary report shall be submitted to the
9 legislature no later than twenty days prior to the convening of
10 the regular session of 2019, and a final report shall be
11 submitted to the legislature no later than twenty days prior to
12 the convening of the regular session of 2020.

13 (c) The department of budget and finance may adopt interim
14 rules exempt from the public notice and public hearing
15 requirements of chapter 91, Hawaii Revised Statutes, necessary
16 to implement this section.

17 SECTION 3. The Hawaii Revised Statutes is amended by
18 adding a new chapter to be appropriately designated and to read
19 as follows:

20 "CHAPTER

21 HAWAII RETIREMENT SAVINGS PROGRAM



1 **§ -1 Definitions.** As used in this chapter, unless the
2 context otherwise requires:

3 "Board" means the Hawaii retirement savings board.

4 "Employee" means a person who is eligible to participate in
5 the program as established in section -4.

6 "Employer" includes any individual, partnership,
7 association, joint-stock company, trust, corporation, the
8 personal representative of the estate of a deceased individual
9 or the receiver, trustee, or successor of any of the same,
10 employing any person, but shall not include the State or any
11 political subdivision thereof or the United States.

12 "Program" means the Hawaii retirement savings program.

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 the 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 engaged in business relating to
11 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 program pursuant to section -4;



- 1 (2) Adopt rules pursuant to chapter 91 for the general
2 administration of the program as provided in section
3 -5;
- 4 (3) Direct the investment of the funds contributed to
5 accounts in the program consistent with the investment
6 restrictions established by the board; provided that
7 the restrictions shall be consistent with the
8 objectives of the program and the board shall exercise
9 the judgment and care then prevailing that persons of
10 prudence, discretion, and intelligence exercise in the
11 management of their own affairs with due regard to the
12 probable income and level of risk from certain types
13 of investments of money, in accordance with the
14 policies established by the board;
- 15 (4) Collect application, account, or administrative fees
16 to assist the costs of administering the program;
- 17 (5) Make and enter into contracts, agreements, or
18 arrangements, and retain, employ, and contract for any
19 of the following services considered necessary or
20 desirable, for carrying out the purposes set forth by
21 this chapter:



- 1 (A) Services of private and public financial
- 2 institutions, depositories, consultants,
- 3 investment advisers, investment administrators,
- 4 and third-party plan administrators;
- 5 (B) Research, technical, and other services;
- 6 (C) Services of other state agencies to assist the
- 7 board in its duties;
- 8 (6) Evaluate the need for, and procure as needed, pooled
- 9 private insurance for the program; and
- 10 (7) Develop and implement an outreach plan to gain input
- 11 and disseminate information regarding the program and
- 12 retirement savings in general.

13 § -4 Establishment of the Hawaii retirement savings
 14 program. (a) There is established the Hawaii retirement

15 savings program to be administered by the board. The program
 16 shall:

- 17 (1) Allow employees for compensation in the State to
- 18 contribute to an account established under the program
- 19 through payroll deduction;
- 20 (2) Require an employer to offer its employees the
- 21 opportunity to contribute to an account in the program



- 1 through payroll deductions unless the employer offers
2 a qualified retirement plan, including but not limited
3 to a plan qualified under section 401(a), section
4 401(k), section 403(a), section 403(b), section
5 408(k), section 408(p), or section 457(b) of the
6 Internal Revenue Code of 1986, as amended;
- 7 (3) Provide for automatic enrollment of employees and
8 allow employees to opt out of the program;
- 9 (4) Offer a default contribution rate set by the board;
- 10 (5) Offer default escalation of contribution levels that
11 can be increased or decreased within the limits
12 allowed by the Internal Revenue Code of 1986, as
13 amended;
- 14 (6) Provide for contributions to accounts in the program
15 to be deposited directly with the investment
16 administrator for the program;
- 17 (7) Whenever possible, use existing employer and public
18 infrastructure to facilitate contributions to the
19 program, recordkeeping, and outreach;
- 20 (8) Allow no employer contributions to employee accounts;



- 1 (9) Have its records and its program accounts maintained
2 and accounted for separately;
- 3 (10) Provide reports on the status of program accounts to
4 program participants at least annually;
- 5 (11) Allow account owners to both maintain an account
6 regardless of their place of employment and to roll
7 over funds into other retirement accounts;
- 8 (12) Pool accounts established under the program for
9 investment;
- 10 (13) Be professionally managed;
- 11 (14) Provide that the State and employers that participate
12 in the program have no proprietary interest in the
13 contributions to or earnings on amounts contributed to
14 accounts established under the program;
- 15 (15) Provide that the investment administrator for the
16 program shall be the trustee of all contributions and
17 earnings on amounts contributed to accounts
18 established under the program;
- 19 (16) Not impose on employers any duties that are otherwise
20 prohibited under the Employee Retirement Income
21 Security Act of 1974, as amended;



- 1 (17) Keep administration fees in the program low;
- 2 (18) Allow the use of private sector partnerships to
- 3 administer and invest the contributions to the program
- 4 under the supervision and guidance of the board; and
- 5 (19) Allow employers to establish an alternative retirement
- 6 program for some or all employees.
- 7 (b) The program, the board, each board member, and the
- 8 State shall not guarantee any rate of return or any interest
- 9 rate on any contribution; provided that the program, the board,
- 10 each board member, and the State shall not be liable for any
- 11 loss incurred by any person as a result of participating in the
- 12 program.
- 13 § -5 **Rules.** The board shall adopt rules, pursuant to
- 14 chapter 91, necessary for the purposes of this chapter.
- 15 § -6 **Confidentiality.** Individual account information
- 16 for accounts under this program, including but not limited to
- 17 names, addresses, telephone numbers, personal identification
- 18 information, amounts contributed, shall be confidential and
- 19 shall be maintained as confidential:
- 20 (1) Except to the extent necessary to administer the
- 21 program in a manner consistent with sections -2 to



1 -8, the tax laws of the State, and the Internal
2 Revenue Code of 1986, as amended; or

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

6 § -7 Hawaii retirement savings program administrative
7 fund. (a) There is established in the state treasury a special
8 fund to be known as the Hawaii retirement savings program
9 administrative fund, into which shall be deposited:

10 (1) All interest collected under this chapter on and after
11 the establishment of the program;

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

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

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

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

19 (c) Moneys in the Hawaii retirement savings program
20 administrative fund shall be used to pay the administrative



1 costs and expenses by the board and program and for any other
2 purpose described in sections -2 to -8.

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

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

13 SECTION 5. There is appropriated out of the Hawaii
14 retirement savings program administrative fund the sum of
15 \$ or so much thereof as may be necessary for fiscal year
16 2018-2019 for administrative and operating expenses for the
17 Hawaii retirement savings board.

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

20 SECTION 6. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2018-2019 for the
2 market analysis under section 2(a)(1) of this Act.

3 The sum appropriated shall be expended by the legislative
4 reference bureau for the purposes of this Act.

5 SECTION 7. This Act shall take effect on January 1, 2050;
6 provided that:

7 (1) Subject to a positive finding in the feasibility study
8 pursuant to section 2 of this Act, the Hawaii
9 retirement savings board established pursuant to
10 section 3 of this Act shall establish the Hawaii
11 retirement savings program so that individuals may
12 begin making contributions to the program no later
13 than July 1, 2021;

14 (2) If the legislative reference bureau determines that
15 the program would qualify as an employee benefit plan
16 under the Employee Retirement Income Security Act of
17 1974, as amended, the board shall not convene and
18 shall not establish the program; and

19 (3) No employer with a retirement plan or program for
20 their employees shall cancel their retirement plan or



1 program for years from the effective date of
2 this Act.



Report Title:

Hawaii Retirement Savings Program; Hawaii Retirement Savings Board; Private Sector Employees; Market Analysis; Appropriation

Description:

Requires the Legislative Reference Bureau to conduct a study on the feasibility of implementing the Hawaii Retirement Savings Program and to submit to the Legislature a report detailing its findings and proposals. If the results of the study are positive, a Hawaii Retirement Savings Board is established to administer the Hawaii Retirement Savings Program and the Hawaii Retirement Savings Program Administrative Fund. Requires the Board to annually report to the Governor and Legislature. Gives the Department of Budget and Finance interim rule making authority. Appropriates moneys. (SB2333 HD1)

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