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

8 SECTION 2. (a) Before establishing the Hawaii retirement
9 savings board and the Hawaii retirement savings plan, the
10 department of budget and finance shall:

11 (1) Conduct a market analysis to determine:

12 (A) The feasibility of the plan; and

13 (B) Whether and to what extent plans with the

14 characteristics described in section -4,

15 Hawaii Revised Statutes, currently exist in the

16 private market;

17 (2) Obtain legal advice regarding the applicability of the
18 Employee Retirement Income Security Act of 1974, as
19 amended, and the Internal Revenue Code of 1986, as
20 amended, to the plan;



- 1 (3) Investigate whether employers that are not required to
2 participate in the plan can make the plan available to
3 their employees;
- 4 (4) Investigate methods to allow individuals who are not
5 automatically enrolled in the plan to opt in to the
6 plan 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 plan, as well as
13 recommendations on how to eliminate or reduce those
14 costs through incentives, tax credits, or other means;
- 15 (6) Prepare a timeline for implementation of the Hawaii
16 retirement savings plan; and
- 17 (7) Make recommendations to the legislature regarding ways
18 to increase financial literacy in the State.
- 19 The department of budget and finance may issue a request for
20 proposals for a third party to conduct the market analysis under
21 paragraph (1).



1 (b) A preliminary report shall be submitted to the
 2 legislature no later than twenty days prior to the convening of
 3 the regular session of 2019, and a final report shall be
 4 submitted to the legislature no later than twenty days prior to
 5 the convening of the regular session of 2020.

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

10 SECTION 3. The Hawaii Revised Statutes is amended by
 11 adding a new chapter to be appropriately designated and to read
 12 as follows:

13 **"CHAPTER**

14 **HAWAII RETIREMENT SAVINGS PLAN**

15 **§ -1 Definitions.** As used in this chapter, unless the
 16 context otherwise requires:

17 "Board" means the Hawaii retirement savings board.

18 "Employee" means a person who is eligible to participate in
 19 the plan as established in section -4.

20 "Employer" includes any individual, partnership,
 21 association, joint-stock company, trust, corporation, the



1 personal representative of the estate of a deceased individual
2 or the receiver, trustee, or successor of any of the same,
3 employing any person, but shall not include the State or any
4 political subdivision thereof or the United States.

5 "Plan" means the Hawaii retirement savings plan.

6 **§ -2 Hawaii retirement savings board; establishment.**

7 (a) There is established within the department of budget and
8 finance for administrative purposes the Hawaii retirement
9 savings board.

10 (b) The board shall consist of the following eleven
11 members:

- 12 (1) The director of finance or the director's designee;
13 (2) The director of commerce and consumer affairs or the
14 director's designee;
15 (3) The comptroller or the comptroller's designee;
16 (4) A member of the senate to be selected by the president
17 of the senate;
18 (5) A member of the house of representatives to be
19 selected by the speaker of the house of
20 representatives;



1 (6) A representative of the employees' retirement system
2 to be selected by the governor pursuant to section
3 26-34;

4 (7) A representative of the Chamber of Commerce Hawaii to
5 be selected by the governor pursuant to section 26-34;

6 (8) Two members from the small business industry to be
7 selected by the governor pursuant to section 26-34;
8 and

9 (9) Two representatives of the community, one to be
10 selected by the president of the senate and one to be
11 selected by the speaker of the house of
12 representatives.

13 (c) The representative of the employees' retirement
14 system, the representative of the Chamber of Commerce Hawaii,
15 and the members from the small business industry shall serve
16 terms of years; provided that the members shall serve no
17 more than consecutive terms. The senate member shall
18 serve at the pleasure of the senate president. The member of
19 the house of representatives shall serve at the pleasure of the
20 speaker of the house of representatives. All other members
21 shall serve in an ex officio capacity.



1 (d) The members of the board shall serve without pay but
2 shall be entitled to reimbursement for necessary expenses,
3 including travel and board and lodging expenses, while attending
4 meetings of the board or when engaged in business relating to
5 the work of the board.

6 (e) The director of finance or the director's designee
7 shall serve as chairperson of the board.

8 (f) The board may employ, without regard to chapter 76,
9 staff necessary for the performance of its functions and fix
10 their compensation.

11 **§ -3 Duties of the board.** The board shall:

12 (1) Establish, implement, and maintain the Hawaii
13 retirement savings plan pursuant to section -4;

14 (2) Adopt rules pursuant to chapter 91 for the general
15 administration of the plan as provided in section
16 -5;

17 (3) Direct the investment of the funds contributed to
18 accounts in the plan consistent with the investment
19 restrictions established by the board; provided that
20 the restrictions shall be consistent with the
21 objectives of the plan and the board shall exercise



1 the judgment and care then prevailing that persons of
2 prudence, discretion, and intelligence exercise in the
3 management of their own affairs with due regard to the
4 probable income and level of risk from certain types
5 of investments of money, in accordance with the
6 policies established by the board;

7 (4) Collect application, account, or administrative fees
8 to assist the costs of administering the plan;

9 (5) Make and enter into contracts, agreements, or
10 arrangements, and retain, employ, and contract for any
11 of the following services considered necessary or
12 desirable, for carrying out the purposes set forth by
13 this chapter:

14 (A) Services of private and public financial
15 institutions, depositories, consultants,
16 investment advisers, investment administrators,
17 and third-party plan administrators;

18 (B) Research, technical, and other services;

19 (C) Services of other state agencies to assist the
20 board in its duties;



1 (6) Evaluate the need for, and procure as needed, pooled
2 private insurance for the plan; and

3 (7) Develop and implement an outreach plan to gain input
4 and disseminate information regarding the plan and
5 retirement savings in general.

6 **§ -4 Establishment of the Hawaii retirement savings**

7 **plan.** (a) There is established the Hawaii retirement savings
8 plan to be administered by the board. The plan shall:

9 (1) Allow employees for compensation in the State to
10 contribute to an account established under the plan
11 through payroll deduction;

12 (2) Require an employer to offer its employees the
13 opportunity to contribute to an account in the plan
14 through payroll deductions unless the employer offers
15 a qualified retirement plan, including but not limited
16 to a plan qualified under section 401(a), section
17 401(k), section 403(a), section 403(b), section
18 408(k), section 408(p), or section 457(b) of the
19 Internal Revenue Code of 1986, as amended;

20 (3) Provide for automatic enrollment of employees and
21 allow employees to opt out of the plan;



- 1 (4) Offer a default contribution rate set by the board;
- 2 (5) Offer default escalation of contribution levels that
- 3 can be increased or decreased within the limits
- 4 allowed by the Internal Revenue Code of 1986, as
- 5 amended;
- 6 (6) Provide for contributions to accounts in the plan to
- 7 be deposited directly with the investment
- 8 administrator for the plan;
- 9 (7) Whenever possible, use existing employer and public
- 10 infrastructure to facilitate contributions to the
- 11 plan, recordkeeping, and outreach;
- 12 (8) Require no employer contributions to employee
- 13 accounts;
- 14 (9) Have its records and its plan accounts maintained and
- 15 accounted for separately;
- 16 (10) Provide reports on the status of plan accounts to plan
- 17 participants at least annually;
- 18 (11) Allow account owners to both maintain an account
- 19 regardless of their place of employment and to roll
- 20 over funds into other retirement accounts;



- 1 (12) Pool accounts established under the plan for
2 investment;
- 3 (13) Be professionally managed;
- 4 (14) Provide that the State and employers that participate
5 in the plan have no proprietary interest in the
6 contributions to or earnings on amounts contributed to
7 accounts established under the plan;
- 8 (15) Provide that the investment administrator for the plan
9 shall be the trustee of all contributions and earnings
10 on amounts contributed to accounts established under
11 the plan;
- 12 (16) Not impose on employers any duties that are otherwise
13 prohibited under the Employee Retirement Income
14 Security Act of 1974, as amended;
- 15 (17) Keep administration fees in the plan low;
- 16 (18) Allow the use of private sector partnerships to
17 administer and invest the contributions to the plan
18 under the supervision and guidance of the board; and
- 19 (19) Allow employers to establish an alternative retirement
20 plan for some or all employees.



1 (b) The plan, the board, each board member, and the State
2 shall not guarantee any rate of return or any interest rate on
3 any contribution; provided that the plan, the board, each board
4 member, and the State shall not be liable for any loss incurred
5 by any person as a result of participating in the plan.

6 **§ -5 Rules.** The board shall adopt rules, pursuant to
7 chapter 91, necessary for the purposes of this chapter.

8 **§ -6 Confidentiality.** Individual account information
9 for accounts under this plan, including but not limited to
10 names, addresses, telephone numbers, personal identification
11 information, amounts contributed, shall be confidential and
12 shall be maintained as confidential:

13 (1) Except to the extent necessary to administer the plan
14 in a manner consistent with sections -2 to -8,
15 the tax laws of the State, and the Internal Revenue
16 Code of 1986, as amended; or

17 (2) Unless the person who provides the information or is
18 the subject of the information expressly agrees in
19 writing that the information may be disclosed.

20 **§ -7 Hawaii retirement savings plan administrative fund.**

21 (a) There is established in the state treasury a special fund



1 to be known as the Hawaii retirement savings plan administrative
2 fund, into which shall be deposited:

3 (1) All interest collected under this chapter on and after
4 the establishment of the plan;

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

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

7 (4) Moneys transferred to the fund from the federal
8 government, other state agencies, or local
9 governments.

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

12 (c) Moneys in the Hawaii retirement savings plan
13 administrative fund shall be used to pay the administrative
14 costs and expenses by the board and plan and for any other
15 purpose described in sections -2 to -8.

16 **§ -8 Annual report.** The board shall prepare an annual
17 report detailing the board's activities for the previous fiscal
18 year. The annual report shall be submitted to the governor and
19 legislature no later than twenty days prior to the convening of
20 each regular session."



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2018-2019 to be
4 deposited into the Hawaii retirement savings plan administrative
5 fund.

6 SECTION 5. There is appropriated out of the Hawaii
7 retirement savings plan administrative fund the sum of
8 \$ or so much thereof as may be necessary for fiscal
9 year 2018-2019 for administrative and operating expenses for the
10 Hawaii retirement savings board.

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

13 SECTION 6. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so much
15 thereof as may be necessary for fiscal year 2018-2019 for the
16 market analysis under section 2(a)(1) of this Act.

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

19 SECTION 7. This Act shall take effect on January 1, 2050;
20 provided that, subject to a positive findings in the feasibility
21 study pursuant to section 2 of this Act, the Hawaii retirement



1 savings board established pursuant to section 3 of this Act
2 shall establish the Hawaii retirement savings plan so that
3 individuals may begin making contributions to the plan no later
4 than July 1, 2021; provided further that if the department
5 determines that the plan would qualify as an employee benefit
6 plan under the Employee Retirement Income Security Act of 1974,
7 as amended, the department shall not establish the plan.



Report Title:

Retirement Savings Plan; Retirement Savings Board; B&F; Private Sector; Market Analysis; Appropriation

Description:

Requires the Department of Budget and Finance to conduct a study on the feasibility of implementing the Hawaii retirement savings plan and to submit to the Legislature a report detailing its findings and proposals. If the results of the study are positive, establishes a retirement savings board to administer the Hawaii retirement savings plan and the Hawaii retirement savings plan administrative fund, and requires the board to annually report to the Governor and Legislature. Gives the Department of Budget and Finance interim rule making authority. Appropriates moneys. Effective 1/1/2050. (SD2)

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