
A BILL FOR AN ACT

RELATING TO THE INNOVATION ECONOMY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's desire for
2 economic growth that benefits all residents depends on building
3 our State's human resources, and in turn, applying these highly
4 skilled resources to the creation and adoption of innovation
5 across its economy.

6 The legislature further finds that economic growth and
7 diversification throughout many communities has been enhanced by
8 the availability of venture capital funding for entrepreneurs
9 engaged in building innovative new ventures. Well-known regions
10 such as Silicon Valley; Route 128 in Boston; Austin, Texas; and
11 the Research Triangle in North Carolina have benefited greatly
12 from the combination of scientific research, an entrepreneurial
13 culture driving high technology growth, and funding availability
14 for early-stage equity investments. Other areas similar in size
15 and population to Hawaii, including San Diego, Salt Lake City,
16 Seattle, and Boulder, have also developed strong technology-
17 based businesses with the assistance of venture capital.



1 The source of this venture capital is derived in large part
2 through employee pension funds. Of the approximately
3 \$25,000,000,000 of venture investment in 2006, over half was
4 provided by pension funds. Many public pension funds target
5 investments in-state to provide enhanced returns to pensioners
6 and support the development of high-growth businesses within
7 local communities.

8 The state employees' retirement system has committed
9 approximately \$300,000,000 to the alternative asset category,
10 including venture capital, but none of it is invested in Hawaii.
11 The legislature finds that this lack of investment in Hawaii
12 venture capital by the employees' retirement system may be due to
13 a lack of large-scale qualified investment opportunities and
14 concerns over the possible breach of fiduciary duty and prudent
15 investor rules related to early-stage investing. Oregon, for
16 example, has legislated investment by the public pension fund in
17 local venture capital where prudent.

18 The purpose of this Act is to encourage the employees'
19 retirement system to invest in Hawaii venture capital by:

- 20 (1) Requiring the employees' retirement system to report
21 annually to the legislature on any Hawaii venture



1 capital investments; provided that if the board
2 determines it is not prudent to invest in any Hawaii
3 venture capital the board shall report the rationale
4 for the decision; and

- 5 (2) Requiring the employees' retirement system to develop
6 criteria to determine the amount of funds that may be
7 prudently invested in Hawaii private placement
8 investments.

9 SECTION 2. Section 88-119, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§88-119 Investments.** Investments may be made in:

- 12 (1) Real estate loans and mortgages. Obligations (as
13 defined in section 431:6-101) of any of the following
14 classes:

- 15 (A) Obligations secured by mortgages of nonprofit
16 corporations desiring to build multirental units
17 (ten units or more) subject to control of the
18 government for occupancy by families displaced as
19 a result of government action;
- 20 (B) Obligations secured by mortgages insured by the
21 Federal Housing Administration;



- 1 (C) Obligations for the repayment of home loans made
2 under the Servicemen's Readjustment Act of 1944
3 or under Title II of the National Housing Act;
4 (D) Other obligations secured by first mortgages on
5 unencumbered improved real estate owned in fee
6 simple; provided that the amount of the
7 obligation at the time investment is made therein
8 shall not exceed eighty per cent of the value of
9 the real estate and improvements mortgaged to
10 secure it, and except that the amount of the
11 obligation at the time investment is made therein
12 may exceed eighty per cent but no more than
13 ninety per cent of the value of the real estate
14 and improvements mortgaged to secure it; provided
15 further that the obligation is insured or
16 guaranteed against default or loss under a
17 mortgage insurance policy issued by a casualty
18 insurance company licensed to do business in the
19 State. The coverage provided by the insurer
20 shall be sufficient to reduce the system's
21 exposure to not more than eighty per cent of the
22 value of the real estate and improvements



1 mortgaged to secure it. The insurance coverage
2 shall remain in force until the principal amount
3 of the obligation is reduced to eighty per cent
4 of the market value of the real estate and
5 improvements mortgaged to secure it, at which
6 time the coverage shall be subject to
7 cancellation solely at the option of the board.
8 Real estate shall not be deemed to be encumbered
9 within the meaning of this subparagraph by reason
10 of the existence of any of the restrictions,
11 charges, or claims described in section
12 431:6-308;

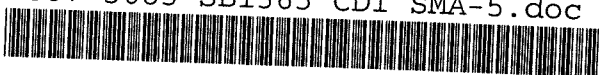
13 (E) Other obligations secured by first mortgages of
14 leasehold interests in improved real estate;
15 provided that:

16 (i) Each leasehold interest at the time shall
17 have a current term extending at least two
18 years beyond the stated maturity of the
19 obligation it secures; and

20 (ii) The amount of the obligation at the time
21 investment is made therein shall not exceed
22 eighty per cent of the value of the



1 respective leasehold interest and
2 improvements, and except that the amount of
3 the obligation at the time investment is
4 made therein may exceed eighty per cent but
5 no more than ninety per cent of the value of
6 the leasehold interest and improvements
7 mortgaged to secure it;
8 provided further that the obligation is insured
9 or guaranteed against default or loss under a
10 mortgage insurance policy issued by a casualty
11 insurance company licensed to do business in the
12 State. The coverage provided by the insurer
13 shall be sufficient to reduce the system's
14 exposure to not more than eighty per cent of the
15 value of the leasehold interest and improvements
16 mortgaged to secure it. The insurance coverage
17 shall remain in force until the principal amount
18 of the obligation is reduced to eighty per cent
19 of the market value of the leasehold interest and
20 improvements mortgaged to secure it, at which
21 time the coverage shall be subject to
22 cancellation solely at the option of the board;



1 (F) Obligations for the repayment of home loans
2 guaranteed by the department of Hawaiian home
3 lands pursuant to section 214(b) of the Hawaiian
4 Homes Commission Act, 1920; and

5 (G) Obligations secured by second mortgages on
6 improved real estate for which the mortgagor
7 procures a second mortgage on the improved real
8 estate for the purpose of acquiring the
9 leaseholder's fee simple interest in the improved
10 real estate; provided that any prior mortgage
11 [~~does~~] shall not contain provisions that might
12 jeopardize the security position of the
13 retirement system or the borrower's ability to
14 repay the mortgage loan.

15 The board may retain the real estate, including
16 leasehold interests therein, as it may acquire by
17 foreclosure of mortgages or in enforcement of
18 security, or as may be conveyed to it in satisfaction
19 of debts previously contracted; provided that all the
20 real estate, other than leasehold interests, shall be
21 sold within five years after acquiring the same,
22 subject to extension by the governor for additional

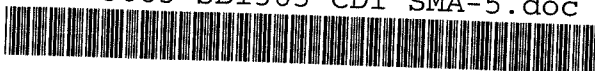


1 periods not exceeding five years each, and that all
2 the leasehold interests shall be sold within one year
3 after acquiring the same, subject to extension by the
4 governor for additional periods not exceeding one year
5 each;

6 (2) Government obligations, etc. Obligations of any of
7 the following classes:

8 (A) Obligations issued or guaranteed as to principal
9 and interest by the United States or by any state
10 thereof or by any municipal or political
11 subdivision or school district of any of the
12 foregoing; provided that principal of and
13 interest on the obligations are payable in
14 currency of the United States; or sovereign debt
15 instruments issued by agencies of, or guaranteed
16 by foreign governments;

17 (B) Revenue bonds, whether or not permitted by any
18 other provision hereof, of the State or any
19 municipal or political subdivision thereof,
20 including the board of water supply of the city
21 and county of Honolulu, and street or improvement



1 district bonds of any district or project in the
2 State; and

3 (C) Obligations issued or guaranteed by any federal
4 home loan bank, including consolidated federal
5 home loan bank obligations, the Home Owner's Loan
6 Corporation, the Federal National Mortgage
7 Association, or the Small Business
8 Administration;

9 (3) Corporate obligations. Below investment grade or
10 nonrated debt instruments, foreign or domestic, in
11 accordance with investment guidelines adopted by the
12 board;

13 (4) Preferred and common stocks. Shares of preferred or
14 common stock of any corporation created or existing
15 under the laws of the United States or of any state or
16 district thereof or of any country;

17 (5) Obligations eligible by law for purchase in the open
18 market by federal reserve banks;

19 (6) Obligations issued or guaranteed by the International
20 Bank for Reconstruction and Development, the
21 Inter-American Development Bank, the Asian Development
22 Bank, or the African Development Bank;



1 (7) Obligations secured by collateral consisting of any of
2 the securities or stock listed above and worth at the
3 time the investment is made at least fifteen per cent
4 more than the amount of the respective obligations;

5 (8) Insurance company obligations. Contracts and
6 agreements supplemental thereto providing for
7 participation in one or more accounts of a life
8 insurance company authorized to do business in Hawaii,
9 including its separate accounts, and whether the
10 investments allocated thereto are comprised of stocks
11 or other securities or of real or personal property or
12 interests therein;

13 (9) Interests in real property. Interests in improved or
14 productive real property in which, in the informed
15 opinion of the board, it is prudent to invest funds of
16 the system. For purposes of this paragraph, "real
17 property" includes any property treated as real
18 property either by local law or for federal income tax
19 purposes. Investments in improved or productive real
20 property may be made directly or through pooled funds,
21 including common or collective trust funds of banks
22 and trust companies, group or unit trusts, limited



1 partnerships, limited liability companies, investment
2 trusts, title-holding corporations recognized under
3 section 501(c) of the Internal Revenue Code of 1986,
4 as amended, similar entities that would protect the
5 system's interest, and other pooled funds invested on
6 behalf of the system by investment managers retained
7 by the system;

8 (10) Other securities and futures contracts. Securities
9 and futures contracts in which in the informed opinion
10 of the board, it is prudent to invest funds of the
11 system, including currency, interest rate, bond, and
12 stock index futures contracts and options on the
13 contracts to hedge against anticipated changes in
14 currencies, interest rates, and bond and stock prices
15 that might otherwise have an adverse effect upon the
16 value of the system's securities portfolios; covered
17 put and call options on securities; and stock; whether
18 or not the securities, stock, futures contracts, or
19 options on futures are expressly authorized by or
20 qualify under the foregoing paragraphs, and
21 notwithstanding any limitation of any of the foregoing
22 paragraphs (including paragraph (4)); and



1 (11) Private placements. Investments in institutional
2 blind pool limited partnerships, limited liability
3 companies, or direct investments that make private
4 debt and equity investments in privately held
5 companies, including but not limited to investments in
6 Hawaii high technology businesses or venture capital
7 investments that, in the informed opinion of the
8 board, are appropriate to invest funds of the system.
9 In evaluating venture capital investments, the board
10 shall consider, among other things, the impact an
11 investment may have on job creation in Hawaii and on
12 the state economy. The board shall report annually to
13 the legislature on any Hawaii venture capital
14 investments it has made; provided that if the board
15 determines it is not prudent to invest in any Hawaii
16 venture capital investments the board shall report the
17 rationale for the decision. The board, by January 1,
18 2008, shall develop criteria to determine the amount
19 of funds that may be prudently invested in Hawaii
20 private placement investments."

21 SECTION 3. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 2007.



Report Title:

Innovation Economy; Employees' Retirement System

Description:

Requires the employees' retirement system to report annually to the legislature on any Hawaii venture capital investments; provided that if the board determines it is not prudent to invest in any Hawaii venture capital the board shall report the rationale for the decision; requires the board to develop criteria to determine the amount of funds that may be prudently invested in Hawaii private placement investments. (CD1)

