

S.B. NO. 1451

JAN 22 2007

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:

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

10 The State of Hawaii deferred compensation retirement plan
11 for part-time, temporary, and seasonal or casual employees was
12 established under chapter 88F, Hawaii Revised Statutes, in or
13 around 1997, and requires all part-time, temporary, and seasonal
14 or casual employees who are not members of the employees'
15 retirement system to contribute seven and a half percent of
16 their compensation on a tax-deferred basis into this plan in
17 lieu of social security contributions. The board also oversees

1 this plan and selects the investment products that are offered
2 to participants. Because there is currently only one investment
3 product offered in this plan, the mandatory participant
4 contributions are all deposited into this investment product.

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

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

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

21 "[+]§88E-9[+] Investments. (a) The board may create a
22 trust or other special funds for the segregation of funds or

1 assets resulting from compensation deferred and for the
2 administration of the plan. [~~Funds held by the board pursuant~~
3 ~~to a plan established under this chapter~~]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 SECTION 5. This Act shall take effect on July 1, 2007.

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INTRODUCED BY: _____

BY REQUEST

SB 1451

JUSTIFICATION SHEET

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO THE STATE OF HAWAII DEFERRED COMPENSATION PLANS.

PURPOSE: To clarify that the Board of Trustees ("Board") of both the State of Hawaii Deferred Compensation Plan ("Plan") and the State Deferred Compensation Retirement Plan for Part-time, Temporary, and Seasonal or Casual Employees ("PTS Plan") may select and offer participants investment products that are commonly offered in the securities industry or other deferred compensation plans and are determined by the Board to be reasonable, prudent investment products.

MEANS: Amend sections 88E-9 and 88F-7, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Since the establishment of the Plan in or around 1983, and the PTS Plan in or around 1997, the securities industry has been changing and modernizing. New types of investment products are being created and offered to the public.

Although the current language of sections 88E-9 and 88F-7, HRS, is broad, these sections are being amended to make it clear that any 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.

The other amendments to sections 88E-9 and 88F-7, HRS, are non-substantive, and are made for the purposes of consistency, style, and clarity.

Impact on the public: None.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: All Executive Branch agencies, the judiciary
and the legislative branch.

EFFECTIVE DATE: July 1, 2007.