

JAN 18 2019

A BILL FOR AN ACT

RELATING TO THE HAWAII RETIREMENT SAVINGS PROGRAM.

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. College
6 savings programs, like Hawaii's 529 college savings program,
7 allow an individual to set up a college account for themselves
8 or a beneficiary to save money for education expenses.

9 Similarly, a retirement savings program that allows individuals
10 to save money for themselves for retirement, regardless of
11 whether their employer offers such an option, could help
12 residents achieve economic security, improve economic mobility,
13 and reduce wealth disparity. Private sector employees with
14 access to employer-sponsored retirement plans provides a
15 reliable way to accumulate savings needed for a secure
16 retirement.

17 The legislature further finds that approximately fifty per
18 cent of the State's private sector employees work for an
19 employer that does not offer a retirement plan or are not
20 eligible for the plan offered. The lack of opportunity to
21 participate in an employer-provided retirement plan spans all



1 levels of education and earnings. Employees of Hawaii
 2 businesses with fewer than one hundred employees are much less
 3 likely to have access to a retirement plan than employees of
 4 larger businesses. Employees who are offered the opportunity to
 5 save through the employee's place of employment are
 6 significantly more likely to participate and make steady
 7 contributions to build retirement savings.

8 The purpose of this Act is to establish the Hawaii
 9 retirement savings program for private sector employees.

10 SECTION 2. 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 PROGRAM

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

17 "Department" means the department of budget and finance.

18 "Director" means the director of finance.

19 "Employee" means a person who is eligible to participate in
 20 the program as established in section -2.



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

7 "Program" means the Hawaii retirement savings program.

8 **§ -2 Establishment of the Hawaii retirement savings**

9 **program.** (a) There is established the Hawaii retirement
10 savings program to be administered by the department. The
11 program shall:

12 (1) Allow employees for compensation in the State to
13 contribute to an account established under the program
14 through payroll deduction;

15 (2) Require an employer to offer its employees the
16 opportunity to contribute to an account in the program
17 through payroll deductions unless the employer offers
18 a qualified retirement plan, including but not limited
19 to a plan qualified under section 401(a), section
20 401(k), section 403(a), section 403(b), section



S.B. NO. 1049

- 1 408(k), section 408(p), or section 457(b) of the
2 Internal Revenue Code of 1986, as amended;
- 3 (3) Provide for automatic enrollment of employees and
4 allow employees to opt out of the program;
- 5 (4) Offer a default contribution rate set by the
6 department;
- 7 (5) Offer default escalation of contribution levels that
8 can be increased or decreased within the limits
9 allowed by the Internal Revenue Code of 1986, as
10 amended;
- 11 (6) Provide for contributions to accounts in the program
12 to be deposited directly with the director;
- 13 (7) Whenever possible, use existing employer and public
14 infrastructure to facilitate contributions to the
15 program, recordkeeping, and outreach;
- 16 (8) Allow no employer contributions to employee accounts;
- 17 (9) Have its records and its program accounts maintained
18 and accounted for separately;
- 19 (10) Provide reports on the status of program accounts to
20 program participants at least annually;



- 1 (11) Allow account owners to both maintain an account
- 2 regardless of their place of employment and to roll
- 3 over funds into other retirement accounts;
- 4 (12) Pool accounts established under the program for
- 5 investment;
- 6 (13) Be professionally managed;
- 7 (14) Provide that the State and employers that participate
- 8 in the program have no proprietary interest in the
- 9 contributions to or earnings on amounts contributed to
- 10 accounts established under the program;
- 11 (15) Provide that the director shall be the trustee of all
- 12 contributions and earnings on amounts contributed to
- 13 accounts established under the program;
- 14 (16) Not impose on employers any duties that are otherwise
- 15 prohibited under the Employee Retirement Income
- 16 Security Act of 1974, as amended;
- 17 (17) Keep administration fees in the program low;
- 18 (18) Allow the use of private sector partnerships to
- 19 administer and invest the contributions to the program
- 20 under the supervision and guidance of the department;
- 21 and



S.B. NO. 1049

1 (19) Allow employers to establish an alternative retirement
2 program for some or all employees.

3 (b) The program, department, director and State shall not
4 guarantee any rate of return or any interest rate on any
5 contribution; provided that the program, department, director,
6 and State shall not be liable for any loss incurred by any
7 person as a result of participating in the program.

8 § -3 **Duties of the director.** The director shall:

9 (1) Establish, implement, and maintain the Hawaii
10 retirement savings program pursuant to section -2;

11 (2) Direct the investment of the funds contributed to
12 accounts in the program consistent with the investment
13 restrictions established by the director; provided
14 that the restrictions shall be consistent with the
15 objectives of the program and the director shall
16 exercise the judgment and care then prevailing that
17 persons of prudence, discretion, and intelligence
18 exercise in the management of their own affairs with
19 due regard to the probable income and level of risk
20 from certain types of investments of money, in



- 1 accordance with the policies established by the
2 director;
- 3 (3) Collect application, account, or administrative fees
4 to assist the costs of administering the program;
- 5 (4) Make and enter into contracts, agreements, or
6 arrangements, and retain, employ, and contract for any
7 of the following services considered necessary or
8 desirable, for carrying out the purposes set forth by
9 this chapter:
- 10 (A) Services of private and public financial
11 institutions, depositories, consultants,
12 investment advisers, investment administrators,
13 and third-party plan administrators;
- 14 (B) Research, technical, and other services; or
- 15 (C) Services of other state agencies to assist the
16 department in its duties;
- 17 (5) Evaluate the need for, and procure as needed, pooled
18 private insurance for the program; and
- 19 (6) Develop and implement an outreach plan to gain input
20 and disseminate information regarding the program and
21 retirement savings in general.



1 The director may enter into a management contract of up to ten
2 years with a financial organization. The management contract
3 shall include, at a minimum, terms requiring the financial
4 organization to perform any of the duties required of the
5 director under paragraphs (2) through (6).

6 § -4 Rules. The department shall adopt rules, pursuant
7 to chapter 91, necessary for the purposes of this chapter.

8 § -5 Confidentiality. Individual account information
9 for accounts under this program, 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
14 program in a manner consistent with sections -2 to
15 -7, the tax laws of the State, and the Internal
16 Revenue 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 § -6 Hawaii retirement savings program administrative
21 fund. (a) There is established in the state treasury a special



S.B. NO. 1049

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

- 3 (1) All interest collected under this chapter on and after
4 the establishment of the program;
- 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 shall be the treasurer and custodian of
11 the administrative fund.

12 (c) Moneys in the Hawaii retirement savings program
13 administrative fund shall be used to pay the administrative
14 costs and expenses by the department and program and for any
15 other purpose described in sections -2 to -7.

16 § -7 **Annual report.** The department shall prepare an
17 annual report detailing the department's activities regarding
18 the program for the previous fiscal year. The annual report
19 shall be submitted to the governor and legislature no later than
20 twenty days prior to the convening of each regular session."



S.B. NO. 1049

1 SECTION 3. 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 2019-2020 and
 4 the same sum or so much thereof as may be necessary for fiscal
 5 year 2020-2021 to be deposited into the Hawaii retirement
 6 savings program administrative fund.

7 SECTION 4. There is appropriated out of the Hawaii
 8 retirement savings program administrative fund the sum of
 9 \$ or so much thereof as may be necessary for fiscal
 10 year 2019-2020 and the same sum or so much thereof as may be
 11 necessary for fiscal year 2020-2021 for administrative and
 12 operating expenses of the Hawaii retirement savings program.

13 The sums appropriated shall be expended by the department
 14 of budget and finance for the purposes of this Act.

15 SECTION 5. This Act shall take effect upon its approval;
 16 provided that no employer with a retirement plan or program for
 17 their employees shall cancel their retirement plan or program
 18 for years from the effective date of this Act.

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INTRODUCED BY: *Anna Tanaka*

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S.B. NO. 1049

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S.B. NO. 1049

Report Title:

Hawaii Retirement Savings Program; Private Sector Employees;
Appropriation

Description:

Establishes a Hawaii retirement savings program and the Hawaii retirement savings program administrative fund. Requires the department of budget and finance to annually report to the governor and legislature. Appropriates moneys.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

