
A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF
HAWAII.

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

1 SECTION 1. The legislature finds that Act 260, Session
2 Laws of Hawaii 2007 (Act 260), encouraged the employees'
3 retirement system to invest in Hawaii venture capital by
4 requiring the employees' retirement system to report annually to
5 the legislature on any Hawaii venture capital investments and,
6 if the system's board of trustees determines it is not prudent
7 to invest in any Hawaii venture capital, to report the rationale
8 for the decision. Further, Act 260 required the employees'
9 retirement system to develop criteria to determine the amount of
10 funds that may be prudently invested in Hawaii private placement
11 investments.

12 The legislature further finds that the employees'
13 retirement system created the Hawaii targeted investment program
14 (HiTIP) to fulfill the mandate of Act 260. Criteria and
15 investment guidelines for HiTIP were developed and approved by
16 the employees' retirement system board of trustees and codified



1 in section E of its investment policy, most recently amended in
2 June 2021. According to the policy:

3 (1) The purpose of HiTIP is to produce competitive risk-
4 adjusted investment returns for the employees'
5 retirement system by making investments in emerging
6 growth and growth-oriented businesses in traded sector
7 industries, with specific emphasis on Hawaii. HiTIP's
8 mission is not economic development, but economic
9 development may be one significant byproduct of the
10 investment program;

11 (2) HiTIP funds will be invested only through external
12 general partners or managers or co-investments; and

13 (3) General partners or managers will be fully
14 discretionary, meaning that after funds are allocated
15 to the limited partnership or limited liability
16 company, they are totally responsible for the
17 investment of these funds within their respective
18 investment guidelines.

19 HiTIP is a distinct component of the employees' retirement
20 system private equity portfolio.



1 The legislature also finds that since the inception of the
2 program, \$117,000,000 has been committed, which included
3 reviewing more than two thousand investment opportunities with
4 over one thousand two hundred being Hawaii-based companies. The
5 employees' retirement system is following more than four hundred
6 of those companies for possible future investments.

7 The legislature further finds that the employees'
8 retirement system produced investment returns that have
9 outperformed standard benchmarks in the long run. This
10 performance has been instrumental in helping to reduce the
11 employees' retirement system's large \$13,504,942,967 unfunded
12 actuarial accrued liability as of June 30, 2022.

13 The purpose of this Act is to encourage investment
14 opportunities in industries that will sustain Hawaii's natural
15 environment or produce economic opportunities for its residents,
16 including renewable energy businesses and businesses that use
17 the investment capital to acquire the infrastructure and
18 services needed to become energy sustainable, by:

19 (1) Encouraging the employees' retirement system to
20 consider opportunities in industries that will sustain
21 Hawaii's natural environment or produce economic



1 opportunities for its residents, including renewable
2 energy businesses and businesses that use the
3 investment capital to acquire the infrastructure and
4 services needed to become energy sustainable, in
5 evaluating venture capital investments; provided that
6 if the board determines that it is not prudent to
7 invest in any Hawaii venture capital meeting this
8 description, the board shall report the rationale for
9 the decision in its annual report to the legislature;
10 and

11 (2) Appropriating funds for the employees' retirement
12 system.

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

15 "**§88-119 Investments.** The purpose of investments shall be
16 the exclusive benefit of the members and their beneficiaries.

17 Investments may be made in:

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



- 1 (A) Obligations secured by mortgages of nonprofit
2 corporations desiring to build multirental units
3 (ten units or more) subject to control of the
4 government for occupancy by families displaced as
5 a result of government action;
- 6 (B) Obligations secured by mortgages insured by the
7 Federal Housing Administration;
- 8 (C) Obligations for the repayment of home loans made
9 under the Servicemen's Readjustment Act of 1944
10 or under Title II of the National Housing Act;
- 11 (D) Other obligations secured by first mortgages on
12 unencumbered improved real estate owned in fee
13 simple; provided that the amount of the
14 obligation at the time investment is made therein
15 shall not exceed eighty per cent of the value of
16 the real estate and improvements mortgaged to
17 secure it, and except that the amount of the
18 obligation at the time investment is made therein
19 may exceed eighty per cent but no more than
20 ninety per cent of the value of the real estate
21 and improvements mortgaged to secure it; provided



1 further that the obligation is insured or
2 guaranteed against default or loss under a
3 mortgage insurance policy issued by a casualty
4 insurance company licensed to do business in the
5 State. The coverage provided by the insurer
6 shall be sufficient to reduce the system's
7 exposure to not more than eighty per cent of the
8 value of the real estate and improvements
9 mortgaged to secure it. The insurance coverage
10 shall remain in force until the principal amount
11 of the obligation is reduced to eighty per cent
12 of the market value of the real estate and
13 improvements mortgaged to secure it, at which
14 time the coverage shall be subject to
15 cancellation solely at the option of the board.
16 Real estate shall not be deemed to be encumbered
17 within the meaning of this subparagraph by reason
18 of the existence of any of the restrictions,
19 charges, or claims described in section 431:6-
20 308;



1 (E) Other obligations secured by first mortgages of
2 leasehold interests in improved real estate;
3 provided that:
4 (i) Each leasehold interest at the time shall
5 have a current term extending at least two
6 years beyond the stated maturity of the
7 obligation it secures; and
8 (ii) The amount of the obligation at the time
9 investment is made therein shall not exceed
10 eighty per cent of the value of the
11 respective leasehold interest and
12 improvements, and except that the amount of
13 the obligation at the time investment is
14 made therein may exceed eighty per cent but
15 no more than ninety per cent of the value of
16 the leasehold interest and improvements
17 mortgaged to secure it;
18 provided further that the obligation is insured
19 or guaranteed against default or loss under a
20 mortgage insurance policy issued by a casualty
21 insurance company licensed to do business in the



1 State. The coverage provided by the insurer
2 shall be sufficient to reduce the system's
3 exposure to not more than eighty per cent of the
4 value of the leasehold interest and improvements
5 mortgaged to secure it. The insurance coverage
6 shall remain in force until the principal amount
7 of the obligation is reduced to eighty per cent
8 of the market value of the leasehold interest and
9 improvements mortgaged to secure it, at which
10 time the coverage shall be subject to
11 cancellation solely at the option of the board;

12 (F) Obligations for the repayment of home loans
13 guaranteed by the department of Hawaiian home
14 lands pursuant to section 214(b) of the Hawaiian
15 Homes Commission Act, 1920; and

16 (G) Obligations secured by second mortgages on
17 improved real estate for which the mortgagor
18 procures a second mortgage on the improved real
19 estate for the purpose of acquiring the
20 leaseholder's fee simple interest in the improved
21 real estate; provided that any prior mortgage



1 shall not contain provisions that might
2 jeopardize the security position of the
3 retirement system or the borrower's ability to
4 repay the mortgage loan.

5 The board may retain or dispose of the real estate,
6 including leasehold interests therein, as it may
7 acquire by foreclosure of mortgages or in enforcement
8 of security, or as may be conveyed to it in
9 satisfaction of debts previously contracted in the
10 same manner as other investments in interest in real
11 property authorized by this section;

12 (2) Government obligations, etc. Obligations of any of
13 the following classes:

14 (A) Obligations issued or guaranteed as to principal
15 and interest by the United States or by any state
16 thereof or by any municipal or political
17 subdivision or school district of any of the
18 foregoing; provided that principal of and
19 interest on the obligations are payable in
20 currency of the United States; or sovereign debt



- 1 instruments issued by agencies of, or guaranteed
2 by foreign governments;
- 3 (B) Revenue bonds, whether or not permitted by any
4 other provision hereof, of the State or any
5 municipal or political subdivision thereof,
6 including the board of water supply of the city
7 and county of Honolulu, and street or improvement
8 district bonds of any district or project in the
9 State; and
- 10 (C) Obligations issued or guaranteed by any federal
11 home loan bank, including consolidated federal
12 home loan bank obligations, the Home Owner's Loan
13 Corporation, the Federal National Mortgage
14 Association, or the Small Business
15 Administration;
- 16 (3) Corporate obligations. Below investment grade or
17 nonrated debt instruments, foreign or domestic, in
18 accordance with investment guidelines adopted by the
19 board;
- 20 (4) Preferred and common stocks. Shares of preferred or
21 common stock of any corporation created or existing



- 1 under the laws of the United States or of any state or
2 district thereof or of any country;
- 3 (5) Obligations eligible by law for purchase in the open
4 market by federal reserve banks;
- 5 (6) Obligations issued or guaranteed by the International
6 Bank for Reconstruction and Development, the Inter-
7 American Development Bank, the Asian Development Bank,
8 or the African Development Bank;
- 9 (7) Obligations secured by collateral consisting of any of
10 the securities or stock listed above and worth at the
11 time the investment is made at least fifteen per cent
12 more than the amount of the respective obligations;
- 13 (8) Insurance company obligations. Contracts and
14 agreements supplemental thereto providing for
15 participation in one or more accounts of a life
16 insurance company authorized to do business in Hawaii,
17 including its separate accounts, and whether the
18 investments allocated thereto are comprised of stocks
19 or other securities or of real or personal property or
20 interests therein;



- 1 (9) Interests in real property. Interests in improved or
2 productive real property in which, in the informed
3 opinion of the board, it is prudent to invest funds of
4 the system. For purposes of this paragraph, "real
5 property" includes any property treated as real
6 property either by local law or for federal income tax
7 purposes. Investments in improved or productive real
8 property may be made directly or through pooled funds,
9 including common or collective trust funds of banks
10 and trust companies[]; group or unit trusts[];
11 limited partnerships[]; limited liability
12 companies[]; investment trusts[]; title-holding
13 corporations recognized under section 501(c) of the
14 Internal Revenue Code of 1986, as amended[]; similar
15 entities that would protect the system's interest[];
16 and other pooled funds invested on behalf of the
17 system by investment managers retained by the system;
- 18 (10) Other securities and futures contracts. Securities
19 and futures contracts in which in the informed opinion
20 of the board, it is prudent to invest funds of the
21 system, including currency, interest rate, bond, and



1 stock index futures contracts and options on the
2 contracts to hedge against anticipated changes in
3 currencies, interest rates, and bond and stock prices
4 that might otherwise have an adverse effect upon the
5 value of the system's securities portfolios; covered
6 put and call options on securities; and stock; whether
7 or not the securities, stock, futures contracts, or
8 options on futures are expressly authorized by or
9 qualify under the foregoing paragraphs, and
10 notwithstanding any limitation of any of the foregoing
11 paragraphs (including paragraph (4)); and
12 (11) Private placements. Investments in institutional
13 blind pool limited partnerships, limited liability
14 companies, or direct investments that make private
15 debt and equity investments in privately held
16 companies, including but not limited to investments in
17 Hawaii high technology businesses or venture capital
18 investments that, in the informed opinion of the
19 board, are appropriate to invest funds of the system.
20 In evaluating venture capital investments, the board
21 shall consider the benefits to the members and their



1 beneficiaries but may also consider, among other
2 things, the impact an investment may have on job
3 creation in Hawaii and on the state economy[-] and
4 opportunities in industries that will sustain Hawaii's
5 natural environment or produce economic opportunities
6 for its residents, including renewable energy
7 businesses and businesses that use the investment
8 capital to acquire the infrastructure and services
9 needed to become energy sustainable. The board shall
10 report annually to the legislature on any Hawaii
11 venture capital investments it has made; provided that
12 if the board determines it is not prudent to invest in
13 any Hawaii venture capital investments or in
14 industries that will sustain Hawaii's natural
15 environment or produce economic opportunities for its
16 residents, including renewable energy businesses and
17 businesses that use the investment capital to acquire
18 the infrastructure and services needed to become
19 energy sustainable, the board shall report the
20 rationale for the decision. The board, by January 1,
21 2008, shall develop criteria to determine the amount



1 of funds that may be prudently invested in Hawaii
2 private placement investments."

3 SECTION 3. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2023-2024 to be
6 invested by the employees' retirement system; provided that the
7 employees' retirement system shall give due consideration to
8 investing such moneys in the Hawaii targeted investment program.

9 The sum appropriated shall be expended by the employees'
10 retirement system for the purposes of this Act.

11 SECTION 4. This Act shall take effect on June 30, 3000;
12 provided that section 2 of this Act shall not take effect until
13 the moneys appropriated in section 3 of this Act have been
14 released to the employees' retirement system.

15



Report Title:

Employees' Retirement System; HiTIP; Investments; Report;
Appropriation

Description:

Encourages the employees' retirement system, in evaluating venture capital investments, to consider opportunities in industries that will sustain Hawaii's natural environment or produce economic opportunities for its residents, including renewable energy businesses and businesses that use the investment capital to acquire the infrastructure and services needed to become energy sustainable. If the employees' retirement system board of trustees determines that it is not prudent to invest in any Hawaii venture capital meeting this description, requires the board to report the rationale for the decision in its annual report to the legislature. Appropriates funds. Effective 6/30/3000. (HD1)

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

