

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

AHLANI K. QUIOGUE
EXECUTIVE DIRECTOR

STATE OF HAWAI'I
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAI'I 96813

**HAWAI'I RETIREMENT
SAVINGS BOARD**

Co-Chairs
Jade T. Butay
Luis Salaveria

Members
Jessie Keola Dean
Barbara Krieg
Andrew Nomura
Brian Taniguchi
Karen Yasukawa
Senator Henry J.C. Aquino
Representative Andrew Garrett

**HAWAI'I RETIREMENT SAVINGS
BOARD**

MINUTES OF THE MEETING

Date: January 28, 2025

Time: 1:00 p.m.

In-Person Meeting Location: Princess Ruth Ke'elikolani Building
830 Punchbowl Street, Room 321
Honolulu, Hawaii 96813

Virtual Participation: Virtual Videoconference Meeting – Zoom Webinar

<https://us02web.zoom.us/j/83857463165?pwd=CKkaiNHHYTovZpVaurEFUIG2w3VU7y.1>

Present: Jade T. Butay, Director, Department of Labor and Industrial Relations (“DLIR”), Co-Chairperson
Jesse Keola Dean, Member
Barbara Krieg, Member
Andrew Nomura, Member
Brian Taniguchi, Member
Senator Henry J.C. Aquino, Member
Michael J.S. Moriyama, Deputy Attorney General
Ahlani K. Quiogue, Executive Director
Chavonnie M. Ramos, DLIR Public Information Officer
Jenesis M. Fink, DLIR Intern
Tri C. Pham, DLIR Information Technology Specialist

Excused: Luis Salaveria, Director, Budget and Finance, Co-Chairperson
William G. Kunstman, Deputy Director, DLIR Delegate
Representative Andrew Garrett

Zoom Guests: beitzeld
Esther Brown
Ryley
Spicy W.
Grace Sullivan
Daniel Voelker
aknecht
19493033366
Rachel

In-Person Guest(s): Audrey Suga-Nakagawa, AARP Hawaii Advocacy
Associate

Agenda: The agenda for this meeting was posted to the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b).

Chairperson Butay explained to the members of the public the procedures to participate in the hybrid board meeting, including how a member of the public can participate and interact with the Board during the board meeting.

Call to Order: The meeting was called to order at 1:08 p.m., at which time quorum was established.

Chairperson Butay welcomed everyone to the meeting and proceeded with a roll call of the Board members. All Board members attending the meeting virtually confirmed that they were present and alone.

Approval of the October 21, 2024, Chairperson Butay asked for public comment on this agenda item. There was none.

Open Session

Minutes: It was moved by Ms. Krieg, seconded by Mr. Dean, and unanimously carried to approve the open session meeting minutes of the October 21, 2024, meeting.

2025 Legislative: A. Legislation

Chairperson Butay informed the Board members and members of the public that the following agenda item would be taken out of order given that it was scheduled for hearing before the Senate Committee on Labor and Technology the following day.

Chairperson Butay asked for public comment on this agenda item. There was none.

iv. S.B. 855 RELATING TO THE HAWAII RETIREMENT SAVINGS PROGRAM

The Board discussed this bill.

The purposes of this measure are to: clarify the definition of "covered employer" under the Hawai'i Retirement Savings Act; require covered employers to automatically enroll covered employees into the Hawai'i Retirement Savings Program ("Program") unless the employee chooses to opt out; repeal the limit on the total fees and expenses that can be spent for the Program each year; and appropriate funds to the Department of Labor and Industrial Relations for the development and operation of the Program.

Ms. Quiogue informed members that because the hearing was scheduled for the following day, she submitted testimony on behalf of the Board, which generally reflects the language of the Board's 2024 testimony. The testimony is supportive of requiring covered employers to automatically enroll covered employees into the Hawai'i Retirement Savings Program unless the employee chooses to opt out. She stated further that the testimony provided an explanation of the appropriation, including consultant contracts, marketing and communications, and legal, audit, and insurance. Additionally, the testimony advised the Senate committee that the Board would provide additional comments or amended testimony at the hearing regarding its discussion at its board meeting.

Ms. Quiogue asked for members comments on S.B. 855 and noted that there are two significant differences in this measure compared to the bills heard in 2024 and the current administration bills: (1) an appropriation of \$720,000; and (2) the repeal of the limit on the total fees and expenses that can be spent for the Program each year.

Ms. Krieg expressed her support for the repeal of the language and stated that the Board had not previously discussed this change during the 2024 legislative session, since it was recently brought to her attention. She went on to say that the cap of the total fees and expenses of the Program each year, which shall not exceed 75 bps (basis point fees) is unrealistic, not functional, and could impede the Board in starting the program. This issue could potentially have to be revisited frequently rather than removing the language as currently proposed in this measure and recommended that the Board support this proposed change.

Mr. Taniguchi inquired whether S.B. 855 is similar to the administration bills that were introduced and what are the differences.

For the public's information, the Board returned to the order of the

agenda and discussed the following:

- i. H.B. 1136 RELATING TO HAWAII RETIREMENT SAVINGS ACT
- ii. S.B. 1455, RELATING TO HAWAII RETIREMENT SAVINGS ACT

The purposes of these bills are to: clarify the definition of "covered employer" under the Hawai'i Retirement Savings Act; and require covered employers to automatically enroll covered employees into the Program unless the covered employee chooses to opt out.

In response to Mr. Taniguchi's question, Ms. Quiogue informed the Board that the administration bills are similar to S.B. 855 as it requires covered employers to automatically enroll covered employees into the Program unless the covered employee chooses to opt out. However, the substantive differences are the repeal of the limit on the total fees and expenses that can be spent for the Program each year and the appropriation.

Ms. Krieg related that it is her understanding that the original act ([Act 296, SLH 2022](#)) appropriated \$25 million for matching funds and \$1 million to provide outreach and education to the Program. Ms. Krieg asked the status of the \$1 million for outreach.

Ms. Quiogue indicated that the \$1 million lapsed on June 30, 2024.

For purposes of clarity, Ms. Krieg asked for confirmation that the Program has approximately \$200,000 in operating funds.

Ms. Quiogue responded in the affirmative.

Chairperson Butay informed the Board that the Department of Labor and Industrial Relations is considering a Governor's Message to the budget.

Ms. Quiogue informed the members that she had drafted language for the Governor's Message, which justifies the request and use for the funds.

Ms. Quiogue asked Mr. Moriyama for his comments regarding all four (4) bills.

Mr. Moriyama advised the Board of the following regarding all four (4) bills on the agenda:

- (1) The timing and procedures related to a covered employee's election to opt out of the program. He suggested that this language may need to be amended to provide clearer guidance to employers;
- (2) Whether an option should be available to employees to opt out of the program after they have been enrolled. Mr. Moriyama explained that in some circumstances, the employee may determine that they no longer want to contribute to the program or may not have thoroughly read through their employment packet; and
- (3) Page 8, line 16, changing the "program administrator" to the "covered employer." He explained that the program administrator should not be responsible to provide the covered employees with written notice of the rights of the employee to opt out.

Regarding (1) and (2) above, Mr. Moriyama discussed in detail possible amendments to all of the bills that the Board may consider as provided below:

Beginning on page 8 of S.B. 855, lines 12-19, and continued to page 9, lines 1-17, amending §389-5, HRS:

- (e) Beginning on a date to be determined by the board pursuant to subsection (a), a covered employer shall:
 - (1) ~~[Allow a covered employee to enroll into the program after providing the covered employee with a written notice of the employee's right to opt in]~~
Provide to each covered employee written notice of the right of the covered employee to opt out of the program on a form prescribed by the program;
~~[and]~~
 - (2) Within [time period] after the covered employer provided a covered employee with the written notice of the right of the covered employee to opt out, automatically enroll the covered employee into the program unless the covered employee has elected not to participate; and
- ~~[(2)]~~ (3) For any covered employee who has opted in to is enrolled in the program:
 - (A) Withhold the covered employee's contribution amount from the covered employee's salary or wages; and

- (B) Transmit the contribution amount withheld from the covered employee's [payroll deduction contribution] salary or wages to the program on the earliest date the amount withheld can reasonably be segregated from the covered employer's assets, but no later than the fifteenth day of the calendar month following the month in which the covered employee's contribution amounts are withheld.
- (g) A covered employee who has been enrolled in the program may:
- (1) Elect to opt out by submitting written notice of the covered employee's election not to participate in the program to the covered employer on a form prescribed by the department; and
- (2) Upon the election of an enrolled covered employee to opt out of the program, a covered employer shall cease withholding the covered employee's contribution amount from the covered employee's salary or wages earned starting on the sixteenth day of the calendar month following the month in which the enrolled covered employee elected to opt out of the program.

Ms. Krieg, Mr. Nomura, Mr. Dean, and Mr. Taniguchi stated that time periods should not be set in statute. Instead, the Board should consider these time periods in its administrative rules. The Board should also draft administrative rules to further clarify issues in its statutes.

Chairperson Butay expressed his agreement with all the previous comments.

Mr. Moriyama restated that this language may provide clarity to both the covered employer regarding specified time periods in providing covered employees notice and providing clearer direction for covered employees to opt out of the program. He went on to say that the Board has authority pursuant to subsection (e) to create administrative rules.

Mr. Nomura stated that he would support the suggested amendment to page 8, line 16, to read:

- (1) ~~Allow a~~ Automatically enroll covered employees into the program after [providing] the program administrator
covered employer provides the [covered employee] employees with a written notice of the [employee's] right of the employees to opt [in;] out;

Members agreed that they all supported this recommended

change.

Ms. Quiogue asked that for purposes of consistency, if the administration bills are heard, that the testimony reflect the proposed amendment changing "program administrator" to "covered employer" and add an appropriation section.

Ms. Quiogue asked the Board to consider making a motion regarding the legislation included on the agenda.

Senator Aquino indicated that he would abstain from the vote on these matters.

Mr. Moriyama advised the Board that it may consider all bills in its motion.

It was moved by Ms. Krieg, seconded by Mr. Taniguchi, and unanimously carried to submit testimony in support of H.B. 1136, S.B. 1455, H.B. 847, and S.B. 855, Relating to the Hawaii Retirement Savings Act with suggested amendments as referenced above.

Senator Aquino left the meeting at 1:39 p.m.

B. Legislative Liaison

Chairperson Butay asked for public comment on this agenda item. There was none.

The Board considered appointing legislative liaison(s) to assist in providing positions and testifying on legislative proposals.

Mr. Moriyama advised the Board that it should limit the number of liaisons to no more than two (2) members and its executive director.

Ms. Krieg reminded members that at a past meeting, the Board had delegated these responsibilities to Mr. Taniguchi and Mr. Kunstman. Ms. Krieg sought clarification regarding whether a member who is excused from the board meeting can be considered for the position.

Ms. Quiogue responded in the affirmative.

It was moved by Ms. Krieg, seconded by Mr. Dean and unanimously carried to appoint Mr. Taniguchi and Mr. Kunstman as the Board's legislative liaisons.

Executive Director Report: A. 2025 Board Meeting Schedule

Chairperson Butay asked for public comment on this agenda item. There were none.

Ms. Quiogue informed the Board members that a 2025 board meeting schedule was included in their packets. During the legislative session (January through April) the Board will meet monthly; thereafter, the Board will meet every other month with its last meeting in October. The meetings are scheduled for the second Tuesday of the month and will begin at 1:00 p.m.

Ms. Krieg asked what the protocol is for Board members if they would like to request a matter be placed on a future agenda.

Ms. Quiogue informed the members that they may email her directly if they would like anything added to the agenda.

Ms. Krieg requested that, at a future meeting, the Board invite and receive formal training from The Pew Charitable Trusts ("Pew"). Pew would be able to provide what other states have done, what is most effective in those states so that this Board can use what works and avoid what does not, and what the Board's oversight is, and the executive director's responsibilities are. She went on to say that this is a recommendation only and would like to ensure that the other members opinions are sought.

Messrs. Dean, Nomura, Taniguchi, and Chairperson Butay supported this recommendation.

Ms. Quiogue requested that this type of training occur at a scheduled board meeting following the legislative session.

Mr. Nomura stated, and Mr. Dean concurred that, a strategic plan should be created to ensure the proper implementation of the Program to ensure specific deadlines are met timely.

Next Meeting: Tuesday, February 18, 2025

In-Person Meeting Location: Princess Ruth Ke'elikolani Building
830 Punchbowl Street, Room 321
Honolulu, Hawaii 96813

Virtual Videoconference Meeting – Zoom Webinar

Adjournment: The meeting adjourned at 1:57 p.m.

Taken and Recorded by:

/s/ Ahlani K. Quiogue

Executive Director



Minutes approved as is.
Minutes approved with changes: