

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813

HAWAII RETIREMENT
SAVINGS BOARD

Co-Chairs
Jade T. Butay
Luis Salaveria

Members
Jessie Keola Dean
Barbara Krieg
Andrew Nomura
Brian Taniguchi
Karen Yasukawa
Senator Sharon Moriwaki
Rep Andrew Takuya

HAWAII RETIREMENT SAVINGS PROGRAM BOARD MEETING

MINUTES

December 15, 2023
2:30 p.m.

MEMBER ATTENDEES

Bill Kunstman, Department of Labor and Industrial Relations (DLIR), Director's Designee, Co-Chair
Luis Salaveria, Co-Chair, Department of Budget & Finance (B&F)
Jessie Keola Dean, Member
Barbara Krieg, Member
Andrew Nomura, Member
Karen Yasukawa, Member
Senator Sharon Moriwaki, Member
Andrew Takuya Garrett

Others in attendance

Nancy L. Bernal, DLIR (Secretary)
David Rodriguez, DLIR (Legislative Coordinator)
Michael Moriyama, Department of the Attorney General
Keali'i Lopez, AARP Hawaii

I. Call Meeting to Order

Co-Chair Kunstman called the meeting to order at 2:30 p.m.

II. Approval of the Minutes of the June 27, 2023 Meeting

Co-Chair Kunstman inquired if there were any corrections to the minutes of June 27, 2023, meeting which has been distributed. Hearing none, the minutes were approved.

III. Public Comment Period

No public comments were provided.

IV. Executive Session (Closed to the public)

Member Krieg moved to convene into executive session, seconded by Member Dean, and with all members present voting in the affirmative, the board approved convening in executive session to consider the hire, evaluation, dismissal, or discipline of an officer or employee, where consideration of matters affecting privacy will be involved, pursuant to Section 92-5(a)(2), Hawaii Revised Statutes (HRS)) for the hiring of the Executive

Director pursuant to section 389-3(f), HRS.

The meeting recessed at 2:38 p.m.

Co-Chair Kunstman called the meeting back to order at 3:16 p.m. and announced that the board met in executive session to discuss the hiring of the executive director.

V. Hiring of the Executive Director

Co-Chair Kunstman reviewed a previous board discussion entailing the board's decision to approve the Co-Chair's selection of an executive director candidate pursuant to section 389-3(f), HRS. Co-Chair Kunstman outlined the recruitment and selection process including the formation of a selection panel consisting of Mr. Thomas Williams of the Employees Retirement System, Leila Shar of the DLIR's Workforce Development Division and formerly the Administrative Services Officer for the department, and Co-Chair Kunstman. The position was posted at DHRD's recruitment website and on the DLIR's job listing site on July 18, 2023, as well as at national retirement association's organizations' websites.

The selection panel received eight applications and after an initial screening selected three for virtual interview by mid September. The selection panel decided to break the selection process into two rounds: 1. virtual interviews, and 2. in-person interviews with the panel as well as the Directors of B&F and DLIR. The virtual interview were conducted in the last week of October and two of the candidates were chosen for in-person interviews. The airfare, hotel and a per diem were paid for each candidate for the in-person interviews. Co-Chair stated that an offer for selection was on the table for a candidate and the panel expected an answer by December 18.

Co-Chair Kunstman asked if the board members had any questions or comments regarding the selection process and also solicited public testimony and input regarding the selection process: none was offered.

VI. Delegation of Authority to Exercise Powers and Duties

A. Approval to Delegate Authority to the Executive Director to Exercise the Powers and Duties of the Hawaii Retirement Savings Board under Section 389-4, HRS, Pursuant to Section 389-3(f), HRS

Co-Chair Kunstman cited section 389-4 and 389-3(f), HRS, as the statutory basis for the board to delegate authority to an executive director. This delegation can be made to a position and not just to a person. Co-Chair Kunstman posed the question to the board as to whether they wanted to delegate the authority of the board to perform the board functions to an executive director. Member Krieg stated that section 389-4 comprised a broad range of duties and responsibilities and maybe the board should review the list and come prepared to a subsequent meeting to have a discussion to delineate which items the board would like to delegate and which ones should remain at the board level.

Board member Dean suggested that it is unlikely the board would want to delegate all of the powers and duties in section 389-4 and it would be helpful to have a recommendation as to what the board should do in specifying which items to delegate or not. Board member Krieg suggested that maybe there's a core portion related to operations that might be delegated to the executive director to ensure the program can move forward with operations. Deputy AG Moriyama stated that the board should consider why the executive director position exists—to perform some of the functions of the board or otherwise the board needs to carry out all of the functions listed in the statute. Deputy AG Moriyama suggested that the board would probably like to hand off the day to day operations to the executive director while setting the policies. He further

stated that any specific duty or power delegated to the executive director could also be circumscribed or limited.

Member Moriwaki commented on the difficulties inherent in establishing a new board and outlined that ideally the executive director and staff would provide research and options for the board to consider in setting forth the policies. Member Taniguchi agreed and affirmed that without the executive director promulgating rules and suggestions for the board's consideration its difficult to ascertain the powers and duties the board should retain and those that should be delegated. Co-Chair Kunstman said the discussion underscores the need for an executive director and in the development and operation of the program some of the issues will come to light and perhaps the board should err on the side of conservatism and not delegate broadly.

Member Garrett asked if the relationship between the executive director and the board was discussed with the candidates and if the panel outlined the degree of autonomy a candidate might expect? Co-Chair Kunstman shared that the panel made it clear to the candidates that the executive director reports to the board.

Member Dean asked if other board examples of delegations could be provided to the board. Co-Chair Kunstman said yes samples of delegations from other similar boards could be provided and review and discussion of delegations would be added to an agenda to a future board meeting.

VII. FY2024 Budget
A. FY 2023-24 Fiscal Report

Co-Chair Kunstman noted that the board had previously approved of the department spending up to \$10,000 on behalf of the program and that to date only the expenses involved in the panel's in-person interview with two candidates was charged to the board. Co-Chair Kunstman referred to the handout in the board packet that outlines the expenses that include airfare, hotel and per diem for the two candidates. He also noted that there's also legal charges involved from the Department of the Attorney General but those are not available for the current fiscal year yet, the FY23-24 legal charges were from before the board had an appropriation and therefore were covered by the DLIR.

Board member Krieg asked if it was usual and customary for the programs to pay for legal services provided by the Attorneys General. Co-Chair Kunstman said all DLIR programs are charged for services provided from the Department of the Attorney General.

Co-Chair Kunstman stated that to date the charges totaled \$3,105.41.

B. FY 2024-25 Supplemental Budget Report
i. Positions and Funding
ii. Feasibility Study Status

Co-Chair Kunstman referred to the board packet and handout with the budget worksheets and noted that current fiscal year was the first of the biennium and that the department had not asked for any additional funding or adjustments for the upcoming Governor's Supplemental Executive Budget request. Therefore, all budget items remain the same as provide for in the current budget with the exception of increased costs allocated to salaries pursuant to the applicable collective bargaining agreements and policies. He also noted that the feasibility study remains in the current fiscal year's

budget and that there may be a potential for that line item to lapse and the board should consider whether to request moving that to the second year of the biennium.

C. Authorization and Approval for the Department of Labor and Industrial Relations (DLIR) to Expend Program Funds to Initiate and Administer the Hawaii Retirement Savings Program

Co-Chair Kunstman noted the Co-Chair does not have a recommendation but raised the issue for the board's consideration and that there was likely \$5,000 to \$6,000 remaining in the original \$10,000 authorization. He noted that this item was related to the previous items involving the delegation of board powers and duties to an executive director as well as the hiring of the executive director. Member Krieg asked if the finances were okay at this time and Co-Chair Kunstman replied that he believed so. Co-Chair Kunstman noted that this item was generated for the agenda previously and in preparation for the possible hiring of an executive director and therefore it could be postponed at this time and discussed further at a future meeting.

VIII. Hiring

A. Discussion and Approval of the Position Description for the Program Specialist

Co-Chair Kunstman stated that the department had developed a position description per the suggestion of Co-Chair Salaveria so that the board would have the option of hiring a temporary staff to help with the board's operations if there were no executive director as well as for the executive director to bring someone on quickly. The description is tailored to the position but also flexible and would be relatively easy for the executive director to amend before or after hiring a temporary or permanent candidate.

Co-Chair Kunstman said the question before the board is whether to approve the position description. A roll call vote was conducted with all members present voting in the affirmative and the motion carried. Co-Chair Kunstman remarked that the position description being approved that there may be an agenda item for a future meeting for hiring a temporary program specialist depending on how the hiring process goes for the executive director.

IX. Announcements

Co-Chair Kunstman solicited announcements from the board and the meeting participants. Member Taniguchi shared he had concerns about the current statute, specifically the opt in provision. Member Yasukawa remarked that a change in the statute to opt out was necessary for the program. Co-Chair Kunstman stated that he and Deputy Moriyama had conversations on the topic and that there was specific guidance from the Office of Information Practices on the Sunshine law and boards and commissions including testimony. Outside of the board convening a duly noticed meeting with an agenda item and examining a specific proposal and voting, the board may be limited in formally providing testimony.

Co-Chair Kunstman said the department could provide testimony supporting the intent of a change in the statute if a bill was introduced in the legislature, without an executive director it is difficult to have the board deliberate and provide testimony. Board member Krieg remarked that during her tenure on the EUTF board that board faced the same issues and that it was the delegation to the executive director of the EUTF that facilitated the EUTF providing testimony on legislative proposals. Co-Chair Kunstman solicited public comment and participant Lopez stated that ideally the legislature would be furnished with data and an analysis from a feasibility study that would likely indicate that the feasibility of the program with an opt in provision would be limited. Co-Chair

Kunstman indicated that it might be prudent to schedule a board meeting after the conclusion of bill introduction for the purpose of the board formally approving provisions contained in specific legislative proposals as well as delegating to one of the Co-Chairs to submit testimony on behalf of the board. Board member Krieg suggested putting specific legislative proposals on all board agendas for meetings occurring during sessions of the legislature.

a. Next Meeting to be Determined

X. Adjournment

There being no further business, Co-Chair Kunstman adjourned the meeting at 4:05p.m.