

**STATE OF HAWAII
DEFERRED COMPENSATION PLAN
BOARD OF TRUSTEES**

**OPEN SESSION MINUTES
MEETING # 338**

Date: November 20, 2009

Place: State Capitol
415 South Beretania Street
Conference Room 309
Honolulu, HI 96813

Present: Marie C. Laderta, Chairperson
Georgina Kawamura, Ex-Officio Member
Sandi Yahiro, Employee Member
Scott Kami, Employee Member
Wesley Machida, Employee Member
Kenneth Taira, At-Large Member

Others: Rodney J. Tam, Deputy Attorney General
Cynthia Akiyoshi, DHRD Staff
Melody Takacs, Plan Administrator Staff (ING)/Honolulu Office
Jeanne Kanai, Plan Administrator Staff (ING)/Honolulu Office
Carol Cann, Plan Administrator Staff (ING) – Via Conference Call
Mr. Robert McGraw, guest
Mr. Gary Shigemura, Esq., guest

Absent: Ryan Ushijima, At-Large Member

Call to
Order: There being a quorum present, Vice Chairperson Yahiro called the meeting to
order at 8:33 a.m.

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor,
as required by Hawaii Revised Statutes section 92-7.

Add
Agenda
Items: Unforeseeable Emergency Withdrawal Case Nos. 278 and 294

A motion was made by Trustee Kawamura and seconded by Trustee Taira to

add to the agenda UEW case nos. 278 and 294. The motion passed unanimously.

Discussion on the Barclays Global Investors contract

A motion was made by Trustee Taira and seconded by Trustee Kawamura to add to the agenda discussion on the contract negotiations related to RFP No. DCP-FY-09-2. The motion passed unanimously.

The Board agreed to take out of order and discuss Agenda Item no. 2 first in the interest of hearing from the guests who are here to speak on Agenda Item no. 2.

Agenda

Item # 2: Review and Action of UEW Case Nos. 254, 270, 271, 272, 276, 276, 277, and 279

UEW Case No. 270

Vice Chairperson Yahiro summarized the UEW subcommittee's findings. The UEW applicant, presented additional information on his current financial status and the outstanding bills to be paid.

A motion was made by Trustee Kawamura and seconded by Trustee Yahiro to move into Executive Session to confer with the Plan's legal counsel at 8:55 a.m. The motion passed unanimously.

EXECUTIVE SESSION

ING staff and the applicant were excused from the meeting

Meeting

Reconvened: **A motion was made by Trustee Kawamura and seconded by Trustee Yahiro to get out of Executive Session at 9:17 a.m. The motion passed unanimously.**

ING staff and the UEW applicant rejoined the meeting.

A motion was made by Trustee Kawamura and seconded by Chairperson Laderta to approve the UEW request for full withdrawal, to include \$2,812.57 for outstanding past due bills, \$1,800 for outstanding past due medical bills, and the remaining balance towards the outstanding credit card debt. There were 5 votes in favor to approve, and 1 vote against.

UEW Case No. 294

Mr. Gary Shigemura, Esq., representing the UEW applicant, presented additional information on the UEW request.

A motion was made by Trustee Kawamura and seconded by Trustee Yahiro to move into Executive Session to confer with the Plan's legal counsel at 9:55 a.m. The motion passed unanimously.

EXECUTIVE SESSION

ING staff and Mr. Shigemura were excused from the meeting.

Meeting

Reconvened: **A motion was made by Trustee Kawamura and seconded by Trustee Yahiro to get out of Executive Session at 10:04 a.m. The motion passed unanimously.**

ING staff and Mr. Shigemura rejoined the meeting.

Chairperson Laderta explained the UEW guidelines prescribed by the Internal Revenue Service, and stated that the Board is deferring a decision on the UEW request pending resubmission of the UEW application.

A motion was made by Trustee Kawamura and seconded by Trustee Kami to defer the UEW request pending resubmission of the UEW application. The motion passed unanimously.

The Board agreed to go back to Agenda Item No. 1.

Agenda

Item # 1: Discussion on Unforeseeable Emergency Withdrawal (UEW) Process

DAG Tam referred to the handout on a draft global UEW policy and summarized the current UEW process. ING initially screens and prepares the applications for review by the UEW subcommittee. The UEW subcommittee reviews and makes a recommendation to the Board to approve or deny the application. The Board then makes a decision based on the UEW subcommittee's recommendations.

DAG Tam noted that the volume of UEW application requests are steadily increasing and the amount of time that the UEW subcommittee spends reviewing the cases is also increasing. If the Board wants to consider delegation of the UEWs to ING, ING has a dedicated team in Lewiston, Maine that can review and approve or deny the applications, beside Ms. Kanai at the local office to handle the UEW screening and review process.

DAG Tam distributed a draft of the UEW guidelines (dated November 19, 2009) that outlines what constitutes an unforeseeable emergency event, what is a severe financial hardship, what types of documentation is needed, what types of cases to approve or not approve, and the process. If ING has questionable cases or if the participant wishes to speak to the Board about the decision made by ING, then ING would bring those cases to the UEW subcommittee. The purpose is to delegate most of the functions and responsibilities away from the UEW subcommittee and the Board.

Ms. Cann added that currently the ING team does process UEW applications for nine (9) other governmental clients and have been doing this for a number of years. She said ING has a fiduciary responsibility when processing these UEW requests.

DAG Tam mentioned that the City and County of Honolulu, who also uses ING as its section 457 plan TPA, has recently delegated the UEW function to ING. There is no additional cost for ING to administer this function.

DAG Tam stated that in the past the Board felt that they should maintain the decision-making responsibility. From the section 457 regulations, the function can be delegated. Because the Board is still ultimately responsible, he noted that it is important that the Board establish the process and suggested that as a part of the guidelines that ING provide a monthly summary report on the UEW cases. This would then streamline the process so that the participant-applicant does not have to wait until the Board holds its meetings.

The Board discussed types of events that Board would possibly consider as qualifying (e.g., furloughs), and how other states' plan interpret the IRS guidelines.

Ms. Kanai reported on the number of UEW cases over the years: in 2005 there were 14 prepared cases, in 2006 there were 22, in 2007 there were 30, in 2008 there were 52, and this year there were 167 requests and many of these are pending or outstanding. The Board stated that they would not want the delegation of this function to create any burden on or complication for the participant.

The Board reviewed and discussed the UEW policy, and agreed on the following points:

- Language be added to cover situations/events that impacts household income.
- For the second element on the severe financial hardship, the participant must demonstrate a hardship and inability to cover all the delinquent expenses, and not for the sole reason to replace lost wages.

- The Board asked that appeals come to the full Board. In an effort to streamline the process, the Board agreed that the Board does not need to ratify the decisions on each of the UEW cases.
- ING must provide monthly reports to the Board to summarize the UEW cases.
- A timeframe for turnaround of 10 business days, if possible, to respond back is requested.

A motion was made by Trustee Yahiro and seconded by Trustee Kami to delegate the administration and processing of UEWs to ING, subject to the guidelines established by the Board and which allows the furlough as a qualifying event. The motion passed unanimously.

Chairperson Laderta called for a five (5) minute break at 10:47 a.m. The meeting resumed at 10:52 a.m.

Agenda
Item # 2:

Review and Action of UEW Case Nos. 254, 270, 271, 272, 276, 276, 277, and 279

Ms. Kanai presented the UEW cases.

UEW Case No. 254

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because the applicant did not meet the severe financial hardship test and the Board needs more financial information. Ms. Kanai reviewed the financial hardship due to the reduced work income over the past years and the applicant's inability to pay the outstanding debts.

A motion was made by Trustee Kawamura and seconded by Trustee Taira to accept the Plan Administrator's recommendation to approve the request for full withdrawal. The motion passed unanimously.

UEW Case No. 271

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because there was a disparity between the income and the bills and the request did not demonstrate there was a severe financial hardship. Ms. Kanai provided an update on the outstanding past due bills and reduced income.

A motion was made by Trustee Kawamura and seconded by Trustee Kami to accept the Plan Administrator's recommendation to approve a partial withdrawal of \$3,145.05. The motion passed unanimously.

UEW Case No. 272

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because the request did not demonstrate and there was no documentation that there was a severe financial hardship. Ms. Kanai provided an update on the additional information and documentation on the current financial status and past due bills.

A motion was made by Trustee Kami and seconded by Trustee Kawamura to approve the Plan Administrator's recommendation to approve a partial withdrawal of \$1,447.25, plus additional tax withholdings. The motion passed with 5 votes in favor, and 1 vote against.

UEW Case No. 275

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because the request did not demonstrate there was a severe financial hardship. Ms. Kanai provided an update on the additional information and documentation on the current income status and past due bills.

A motion was made by Trustee Taira and seconded by Trustee Kawamura to approve the Plan Administrator's recommendation to approve a partial withdrawal for net amount of \$2,600. The motion passed unanimously.

UEW Case No. 276

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because the applicant did not demonstrate there was a severe financial hardship. Ms. Kanai provided an update on the additional information.

A motion was made by Trustee Kawamura and seconded by Trustee Kami to approve the Plan Administrator's recommendation to approve a partial withdrawal of \$2,782.21 to cover the outstanding medical bills of \$1,925.91 plus other past due bills in the amount of \$856.30. The motion passed unanimously.

UEW Case No. 277

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because the applicant did not demonstrate there was a severe financial hardship. Ms. Kanai provided an update on the applicant's reduced income and past due expenses.

A motion was made by Trustee Kawamura and seconded by Trustee Kami to approve the Plan Administrator's recommendation to approve a partial withdrawal of \$3,145.86 to cover past due monthly expenses. The motion passed unanimously.

UEW Case No. 278

Based on the guidelines set forth by the IRS, the UEW subcommittee denied the request because the applicant did not demonstrate there was a severe financial hardship. Ms. Kanai provided an update on additional supporting information explaining the borrowed loan to pay for funeral expenses.

A motion was made by Trustee Kawamura and seconded by Trustee Taira to approve the Plan Administrator's recommendation to approve a partial withdrawal of \$1,432.38 to cover funeral expenses (mortuary expenses of \$1,034.80, car rental of \$177.58, and airfare expenses of \$220). The motion passed with 5 votes in favor, and 1 vote against.

UEW Case No. 279

Ms. Kanai reported that this is a new case that has not yet been reviewed by the UEW subcommittee. Based on the guidelines set forth by the IRS, the Plan Administrator recommended approval for a full withdrawal due to job loss and overwhelming debt incurred.

A motion was made by Trustee Kawamura and seconded by Trustee Machida to approve the Plan Administrator's recommendation for a full withdrawal. The motion passed unanimously.

Added

Agenda Item: **A motion was made by Trustee Yahiro and seconded by Trustee Kawamura to go into Executive Session at 11:50 a.m. to confer with the Plan's legal counsel on ongoing contract negotiations related to RFP No. DCP-FY-09-2. The motion passed unanimously.**

ING staff was excused from the meeting.

EXECUTIVE SESSION

Meeting

Reconvened: **A motion was made by Trustee Yahiro and seconded by Trustee Kawamura to get out of Executive Session at 11:55 a.m. The motion passed unanimously.**

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Motion to

Adjourn: **A motion was made by Trustee Yahiro and seconded by Trustee Kawamura to adjourn the meeting at 11:55 a.m. The motion passed unanimously.**

(Note: Signed copy on file)