

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

**OPEN SESSION MINUTES
MEETING # 435**

Date: April 23, 2020

Place: Conference Line: 1-866-657-9739, Access Code: 739-4089

Present via
Conference

Call: Brian Moto, Chairperson
Ryker Wada, Ex-Officio Member
Robert Yu, Ex-Officio Member
Kalbert Young, Employee Member
Kalei Rapoza, Employee Member

Others via
Conference

Call: Randall Nishiyama, Deputy Attorney General
Cynthia Akiyoshi, DHRD Staff
Fanny Takehara, DHRD Staff
Craig Chaikin, Segal Marco Advisors
Wendy Carter, Segal Marco Advisors
Kevin Malmud, Plan Administrator Staff (Prudential)/Honolulu Office
Julie Klassen, Prudential Retirement
Carol Blumenthal, Prudential Retirement
Deborah Baran, Prudential Retirement
Nathan Glassey, National Benefit Services
Daren Holverson, National Benefit Services
Donna Keliipuleole, Public Employee Attendee

Call to Order: There being a quorum present, Chairperson Brian Moto called the meeting to order at 9:00 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.

Chairperson Moto welcomed everyone and proceeded with introductions.
Chairperson Moto also reviewed a couple of housekeeping items.

Agenda

Item # 1: Public Testimony Period

Ms. Keliipuleole presented oral testimony in support of accessing the retirement funds in the PTS Plan through the distribution relief options under the CARES Act:

- She is an essential worker employed with the DOE but is not negatively impacted by the COVID-19 pandemic.
- Prior to her current status as a full-time worker, she was a part-time teacher about ten years ago and was contributing to the PTS Plan.
- She relayed her concerns with having essential workers access their retirement funds under the PTS Plan, like herself, who is providing economic support to family members that are experiencing adverse financial effects of the COVID-19 pandemic.
- She added that she is also concerned because the Governor announced a 20% pay reduction that he is considering. With other uncertainties, she and others would feel comfortable with the ability to access to their retirement funds as the need increases. With further delays in accessing the retirement funds, there could be greater hardships.

Trustee Wada noted for the record that the Governor has not announced a 20% pay reduction but that the announcement was released by a union organization in a press release or letter to their members.

There were no other testifiers and Chairperson Moto closed the public testimony period.

Agenda

Item # 2: Approval of Payment to DHRD for the Two Special Funded Positions for FY 2021

Ms. Akiyoshi stated that there are two positions to provide administrative support to the Board and the Plan. The bills for collection before the Board are to fund the two positions for the next fiscal year 2021. One is the Human Resources Specialist V level position. The other is for the Human Resources Specialist IV level position which was approved by the Board to staff the Board and the Plan. The funding request for both positions are based on the current fiscal year's salary schedule since we do not yet have the salary schedule for the next fiscal year. The funding amount includes the fringe benefit cost amount for fiscal year 2021, as per the instructions from the Department of Budget and Finance. The funding request for the HRS V level positions is for the amount of \$143,195.00 which is the same funding amount approved for this current fiscal year that ends on June 30, 2020. The funding request for the HRS IV level positions is for the amount of \$86,361.00. The funding to DHRD is needed by June 30, 2020, before the start of the next fiscal year. Any excess amounts not used by the end of the fiscal year will be returned to the Plan.

Ms. Akiyoshi responded to Trustee Rapoza's question that the HRS IV level

position has not been filled yet and the interviews were stopped short of the stay at home orders. Once we return back to work, the plan is to start the interview process and anticipate moving forward with the filling of the position. Director Wada clarified and explained that in the overall picture the position is subject to the hiring freeze; however, due to the funding source, DHRD would need to seek an exception to the freeze first from the Department of Budget and Finance and Governor's Office.

A motion was made by Trustee Wada and seconded by Trustee Rapoza to approve the funding to DHRD for the HRS V level and the HRS IV level positions in the amounts of \$143,195.00 and \$86,361.00, respectively, from the assets of the Plan for Fiscal Year 2021. The motion passed unanimously.

Agenda

Item # 3: Discussion and Potential Action Thereon to Consider Distribution Options under the CARES Act

Chairperson Moto summarized that the CARES Act was passed on March 27, 2020. The Act provides financial relief for Plan participants affected by COVID-19. The Board does oversee both the regular section 457(b) plan and the PTS Plan, and the CARES Act would impact both plans.

Mr. Chaikin provided an overview of the decision points for the options under consideration for the section 457(b) plan. There are three (3) in-service distribution options allowed due to COVID-19 under the CARES Act:

- If the individual has been diagnosed with the COVID19; or
- If the individual's spouse or dependent has been diagnosed with the COVID-19; or
- If the individual is experiencing adverse financial consequences as a result of being quarantined, being furloughed or laid off, having a reduction of work hours, being unable to work due to lack of child care, or the closing or reducing of hours of a business owned or operated by the individual. The adverse financial consequences pertain only to the individual.
- In-service distributions are permitted up to a maximum amount of \$100,000.00 or the total account balance whichever is lesser, with a self-certification if the individual meets the requirements of the Act
- The 10% early withdrawal penalty is waived.

The considerations are to:

- Accept the distributions of up to \$100,000.00 with self-certification, as allowed under the CARES Act and with the ability to pay back the distribution over a course of up to three (3) years; or

- Modify the limits, if the Board does not want to allow the full \$100,000.00. Prudential has programmed the limits as up to \$25,000.00, or up to \$50,000.00, or up to \$75,000.00, or other limitations.
- The Board could also require other documentation from participants.
- The Board could also choose not to accept repayments of the distributions back into the Plan.

Ms. Klassen clarified that:

- For the Plan, there is not usually a 10% early withdrawal penalty; however, the distributions are still subject to income taxes. The automatic withholdings would not be in effect for the CRDs and participants could elect the appropriate withholdings for their circumstances.

In response to Trustee Wada's question on the discretion to lower the amounts, Mr. Chaikin explained that none of the provisions under the CARES Act are mandatory. Plan sponsor can choose to adopt the provisions or not. The maximum limit by law is \$100,000.00. If a Plan sponsor feels that the limit is too high to be taken from the retirement plan, then a Plan sponsor can set a different limit. Custom limits have been more challenging as plans have experienced some delays in implementing the options to allow for the programming of the limits. The options go through the end of 2020.

Mr. Chaikin responded to Trustee Yu's question about how the distributions would affect the financials of the Plan in terms of the amount of the fees that are collected to run the Plan and stated that Prudential has waived any standard fees on distributions. The effect on the potential long-term amount would be dependent on what amounts actually get moved because of this Act. Ms. Klassen added that there is the asset retention view of the impact, but they do not anticipate any fee changes on the CARES Act related distributions. She also addressed Trustee Yu's concern about being transparent about the tax consequences taken on the amount of the coronavirus distributions and stated that that 1099-R forms will be issued, and participants will be responsible for the taxes on the distributions. Ms. Blumenthal stated that there is a special team assigned at Prudential Retirement that is handling the incoming CRD related calls and the team is covering the aspects of the withdrawals and any implications of the tax consequences with participants.

Ms. Akiyoshi confirmed Chairperson Moto's statement that since the Board oversees both the section 457(b) and the PTS plans, the intent was to have the decisions by the Board on the CRD options under the CARES Act for both plans closely mirror each other, for administrative simplicity, in that if the Board decided on adopting the maximum limits under the CARES Act for one plan, the same would apply to the other plan; or if the decision is to modify the maximum

limits on one plan, the same would apply to the other plan. The dollar amount maximum limits would not necessarily need to be the same limits.

In response to Trustee Yu's question on if there are any concerns with a need to remain consistent with the 403(b) plans, Trustee Young stated that the UH and likely the DOE do not administer the 403(b) plans and are set up independently. He does not feel that we should have any concerns with being consistent with those 403(b) plans. Mr. Holverson added that NBS is the administrator for both the UH and the DOE 403(b) plans, and both plans are allowing for the CRD options and both plans are administered separately from the section 457(b) and PTS plans.

Mr. Chaikin reviewed the remaining options:

- There is a loan provision under the CARES Act; however, since the Plan does not offer loans, the loan provision would not apply.
- The CARES Act did eliminate the RMD requirement for individuals who turned age 70-1/2 years last year and for any individuals who are required to take an RMD this year. Prudential instituted a default provision that an annual RMD that is not paid before April 10, 2020 will be stopped with the exception of those individuals who are taking an RMD installments on a monthly, quarterly or semi-annual basis, unless the individual elects otherwise to stop the payments.

Ms. Carter added that most other plans have been allowing the maximum limits and is seeing more plans leaning towards those limits than not.

Ms. Klassen clarified that if an individual started the RMD prior to this year then the individual would stay on that path. The SECURE Act increased the RMD age for those individuals who had not yet started the RMD. The CARES Act enabled those individuals with depressed asset to stop the RMD payment in 2020 if they choose to do so.

Ms. Akiyoshi reviewed the in-service CRD options for the PTS Plan. The considerations closely monitor the regular section 457(b) plan. The first in-service CRD option follows the CARES Act which allows a distribution up to the maximum amount of \$100,000, or up to the maximum amount in a participant's account balance. The second option would modify the limits of the distribution to amounts of up to 50% of a participant's account balance as of March 31, 2020, or up to \$50,000 which is one-half of the \$100,000 maximum amount in the CARES Act, whichever is lesser, and would require the same self-certification documentation.

Ms. Akiyoshi reported that NBS has not processed the annual RMDs for this year 2020. However, if participants choose to continue the RMD, they may do so.

The options presented are optional considerations as plans are not required to adopt the special distribution relief rules.

Chairperson Moto reviewed the two (2) decision guides prepared for the Board's consideration.

Trustee Wada asked whether the self-certifications are intended and designed to insulate the Plan from liability from an individual who comes back later to say that you should not have allowed us to take out the distributions. Mr. Chaikin commented that the Act was designed to allow participants as much access to their monies as possible due to this event. Trustee Wada asked further whether the design for these kinds of plans of limiting the ability for participants to take out money prior to retirement is a type of protected measure from having to view this type of plan as a savings account, and whether the self-certification is sufficient so that in the long term, if employees will say that they should not have been allowed to draw from the retirement account because they are having a hard time in choosing to retire.

DAG Nishiyama stated that the self-certification is meant to protect the Board from liability, and it is the decision of the individual who is withdrawing the assets to be responsible to determine what amount is appropriate for their needs and situation.

Ms. Akiyoshi echoed that the intent for these plans, including the PTS Plan, which is an alternative retirement savings plan, are intended to accumulate and build savings for the retirement years. The contributions to the PTS Plan are in place of contributions to social security. Assets drawn from the PTS Plan could impact the retirement savings accumulation down in the long term. The design of retirement vehicles was intended to ensure participants would have savings in the future. However, in discussions with NBS, over the years, the PTS Plan has seen a trend where the greater majority of participants are taking their cash balances out upon separation from service and not all participants are utilizing the assets for retirement savings.

Although the public testimony period was closed, Ms. Keliipuleole asked to make a statement because she felt that Ms. Akiyoshi was not correct about the information on the trend of cash distributions from the Plan. She has issues with the comment and claimed that most employees are taking their withdrawals from the PTS Plan upon separation from service to place the money into other more competitive investments because the PTS Plan is the least flexible financial investment. The comments made did not truly reflect the intentions of employees.

A motion was made by Trustee Wada and seconded by Trustee Yu to adopt the in-service CRD option for the regular section 457(b) plan which allows participants to take up to the maximum amount in distributions of \$100,000 under the CARES Act, the self-certification by participants, and the ability to make repayments to the Plan within three (3) years .

Discussion: In response to Trustee Young's question on the timing of when participants are able to begin requesting funds if the limit is for the maximum amount of \$100,000, Ms. Klassen reported that this option does align with Prudential's approach. And, Mr. Malmud added that the process can be moved into production quickly.

The motion passed unanimously.

A motion was made by Trustee Rapoza and seconded by Trustee Yu to adopt the default option for the RMD waiver for 2020 for the regular section 457(b) plan which stop the annual RMD payments after April 10, 2020, unless the participant elects otherwise, but continue the monthly, quarterly and semi-annual payments unless the participant elects to stop their RMD payment. The motion passed unanimously.

Trustee Wada requested monthly update reports from Prudential on the two adoptions to determine the effect on the Plan's financial position going forward.

Chairperson Moto moved on to decisions on the CARES Act options for the PTS Plan.

A motion was made by Trustee Wada and seconded by Trustee Yu to adopt the in-service CRD option for the PTS Plan which allows participants to take up to the maximum amount of \$100,000 in distributions under the CARES Act or a distribution from the participant's account balance, whichever is lesser, and a self-certification of eligibility by participants.

Discussion: Trustee Young asked about whether the options are consistent with the section 403(b) plans. Mr. Holverson reported that the options are consistent with the section 403(b) plans for both the University of Hawaii and the Department of Education.

The motion passed unanimously.

A motion was made by Trustee Yu and seconded by Trustee Rapoza to adopt the default option for the RMD waiver for 2020 for the PTS Plan, as proposed by Life Insurance Company of the Southwest and National Benefit Services, which would stop the annual RMD payments unless the participant elects to receive a distribution. The motion passed unanimously.

Agenda
Item # 4:

Schedule Meetings and Events for 2020

- i. Updates on Spring Semi-Annual Meeting and Benefits Fair

Ms. Akiyoshi reported that plans for the Benefits Fairs on Hawaii Island were progressing. In March, the site locations for the fairs in Hilo and Kona needed our confirmations. Some sites needed a deposit, and some could not confirm the date due to the COVID-19 outbreak. Then travel restrictions for both employees and our participating fund managers became uncertain.

With the COVID-19 pandemic evolving and impacting a statewide event, the situation was reported to Director Wada. He obtained agreement from the Governor's Office to suspend the Benefits Fairs in May. Ms. Akiyoshi added that an alternative solution is being worked on with Prudential to create a virtual benefits fair to hold in place of a physical, live fair. Various activities are being explored such as live virtual workshops, on-demand videos of the workshops, virtual one-on-one consultations, fund manager informational tables, chats with the fund managers or via emails, to the extent possible. At this time, we do not anticipate having the other State benefit program providers participate due to the level of logistics that would need to be coordinated. The positive side of a virtual fair is that the fair would not be limited to Hawaii Island employees but open to all State and participating county employees.

In addition, Ms. Akiyoshi asked if the Board would have any objections to suspending the Spring Semi-Annual Board meeting that was planned for May 27, 2020. The Board did not have any objections.

Chairperson Moto took a moment to honor the memory of August Urgola from Prudential Retirement who passed away. Mr. Urgola was instrumental in forging the relationship with the Board when the Plan was first rolled out and has continued the partnership over the years, and we offer our condolences to his family.

There was no other business. Chairperson Moto thanked everyone for attending today's meeting and adjourned the meeting at 10:06 a.m.

(NOTE: Signed copy on file.)