

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

**OPEN SESSION MINUTES**  
**MEETING # 451**

Date: September 15, 2023

Place: Department of Human Resources Development (DHRD)  
14<sup>th</sup> Floor Merit Appeals Board Conference Room  
235 S. Beretania Street, State Office Tower  
Honolulu, Hawaii 96813

Present: Kalei Rapoza, Chairperson  
Brenna Hashimoto, Ex-Officio Member  
Roderick Becker, Ex-Officio Member  
Reiko Matsuyama, Employee Member  
Kalbert Young, Employee Member  
Ken Kitamura, Employee Member (arrived at 9:06 a.m.)  
LiAnn Tokuda, DHRD Staff  
Doreen Kuroda, DHRD Staff  
Randall Nishiyama, Deputy Attorney General  
Kevin Malmud, Empower

Others via

Teams Link: Jeffrey Nipp, Segal Marco Advisors  
Julie Klassen, Empower  
Cyril Tuason, Empower

Absent: Lance Larsen Jr., Employee Member

Call to Order: There being a quorum present, Chairperson Kalei Rapoza called the meeting to order at 9:02 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.

Agenda

Item # 1: Welcome and Introduction of Board Members

Chairperson Rapoza welcomed everyone and proceeded with the introductions of the Board members, Board staff, and other guest attendees. He reviewed some housekeeping items.

Agenda

Item # 2:      Public Testimony

There was no one from the public in attendance to offer testimony. Chairperson Rapoza moved on to the next Agenda Item.

Agenda

Item # 3:      Approval of Minutes No. 450 for the August 3, 2023, meeting

There were no comments or changes offered by the Board members.

**A motion was made by Trustee Hashimoto and seconded by Trustee Becker to approve Minutes No. 450, as presented.**

**The motion passed unanimously.**

Agenda

Item # 4:      Discussion and Consideration on adding Disaster Withdrawal Distributions pursuant to Setting Every Community Up for Retirement Enhancement (SECURE) 2.0 Act Section 331 by Empower and Potential Action Thereon

Staff notified Chairperson Rapoza that Agenda Item #4 needed to be updated to include specific language from the provision and potential motion. Agenda Item #4 should read “Discussion and Consideration on adding Disaster Withdrawal Distributions pursuant to Setting Every Community Up for Retirement Enhancement (SECURE) 2.0 Act Section 331 up to the maximum \$22,000 by Empower and Potential Action Thereon”.

Trustee Matsuyama asked if \$22,000 is the maximum per SECURE 2.0 which Chairperson Rapoza confirmed.

**A motion was made by Trustee Young and seconded by Trustee Kitamura to update Agenda Item #4 to “Discussion and Consideration on adding Disaster Withdrawal Distributions pursuant to Setting Every Community Up for Retirement Enhancement (SECURE) 2.0 Act Section 331 up to the maximum \$22,000 by Empower and Potential Action Thereon”.**

**The motion passed unanimously.**

Ms. Klassen presented Empower’s letter on adding the Disaster Withdrawal Distribution provision (Disaster provision) included in SECURE 2.0.

- Empower can accommodate a disaster withdrawal procedure for affected Plan participants under Section 331 of the SECURE 2.0 Act, which allows for special rules for use of retirement funds in connection with qualified federally declared disasters occurring on or after January 26, 2021.
- The disaster withdrawal limit is \$22,000 limit per disaster.

- The Plan would be Empower's first client to launch this provision if the Board decides to implement it, however, Empower is prepared to launch this provision.
- Empower would require a Directive signed by the Plan to implement the provision. A new form would be created for participants and a Rule Amendment would need to be done.
- A participant must be domiciled in a federally declared disaster area and have sustained an economic loss to be eligible for distribution.
- A distribution must be taken under this section within 179 days following the latest of the applicable dates – December 29, 2022; first date of the period specified by FEMA as the period that the disaster occurred; or the date of the disaster declaration.
- Participant distributions may be recognized ratably for income over a 3-year period. The participant may make repayment to the Plan within 3 years. Repayment may be delayed for up to 1 year.
- A participant application for a disaster withdrawal distribution is being finalized and is expected to include a self-certification by the participant and Plan Sponsor signature.
- The Plan has a de minimis experience with Unforeseeable Emergency Withdrawals (UEWs). In the past 12 months, the Plan approved twenty-two UEWs.
- UEWs require substantial documentation while the Disaster provision would be self-certifying and would not require the same documentation as UEWs.
- Participants from Maui County represent about \$155 million in Plan assets with about two thousand active and retired participants.
- The local office has received one inquiry about UEWs resulting from the Maui fire.

Trustee Hashimoto asked if there was a difference in the withdrawal amount that can be taken under UEWs and the Disaster provision. Mr. Malmud confirmed the Disaster provision has a limit of \$22,000 per disaster while UEW amounts can vary as long as the participant can show the withdrawal will cover their immediate financial needs. Trustee Hashimoto questioned if a participant could take both a UEW and a Disaster Withdrawal Distribution. Ms. Klassen answered that Empower can confirm this for the Board, but she believes it would not overlap as the withdrawals represent two different provisions and the forms and procedures for both withdrawals differ.

Trustee Young asked if the Administrative Rules were amended, would it include any future federally declared disaster, not only for the Maui fires. Ms. Klassen confirmed the provision would cover future disasters. Trustee Young also asked if there was an expiration date on the SECURE 2.0 Act. Ms. Klassen explained there is not an expiration date, however a distribution must be made within 179 days following the latest of the applicable dates. With respect to the Maui fire

disaster, distributions need to be taken 179 days after the Maui fire was federally declared a disaster.

Trustee Matsuyama questioned if the use of the \$22,000 for the Disaster provision would be restricted. Ms. Klassen answered there is no restriction. Trustee Matsuyama also asked if Empower has a mechanism to notify participants in the affected area. Ms. Klassen explained the Retirement Education Counselor assigned to Maui would be apprised of the Disaster provision and communications will be sent to participants and posted on the Plan website.

Trustee Young questioned if this Disaster provision is applicable for participants that do not live in Hawai'i. Ms. Klassen confirmed that it would be applicable to participants living outside of Hawai'i if they reside within the zip code of a federally declared disaster. For the Maui fire disaster, she stated there were nineteen zip codes affected. Trustee Young, Trustee Matsuyama, and Chairperson Rapoza commented on the number of affected zip codes and Ms. Klassen said she will reconfirm this number for the Board.

Chairperson Rapoza asked about the pros and cons of adding the Disaster provision to the Plan. Ms. Klassen stated the primary advantage is the Disaster provision does not require extensive documentation that UEWs require. Also, the rules do not need to be amended before implementing the Disaster provision. The Rule Amendment to add the Disaster provision can be postponed.

Chairperson Rapoza questioned if the Plan Sponsor signature is an Empower request or if it is mandatory per the provision. Ms. Klassen explained the application form requests participant and Plan Sponsor signature. Chairperson Rapoza wanted to clarify if the form is provided under SECURE 2.0 Act. Ms. Klassen answered the form is provided by Empower, however she is unsure if the Disaster provision under SECURE 2.0 Act requires Plan Sponsor signature. Mr. Malmud commented that applications could be routed to the local office for Plan Sponsor signature. Chairperson Rapoza asked Empower to clarify who would be signing off as Plan Sponsor. Ms. Klassen answered that any authorized person can sign off as the Plan Sponsor, however that determination can be confirmed later.

Trustee Hashimoto asked if there were other cons to adding the Disaster provision to the Plan besides the process to amend the rules which Ms. Klassen answered there are not any.

Chairperson Rapoza asked if Empower can run a report on how many State and County participants live in the Lahaina, Kula, and Olinda zip codes. He stated he would like the Plan to be proactive in communication to the participants included in the report if the Disaster provision is added to the Plan. He further commented that he would like to reduce barriers for participants to access their funds in this time of need and be proactive in communication to affected participants.

Trustee Hashimoto asked how quickly the Plan could implement the Disaster provision if action was taken at this meeting while also keeping in mind the 179-day timeframe for participant withdrawals. Mr. Nishiyama replied that the Board can take action at this meeting or defer action until the next meeting. Chairperson Rapoza responded that since there is no process in place, it is difficult to come to a decision, however the Board can adopt the Disaster provision into the Plan and Board staff can work with Empower on a process that the Board approves of. Trustee Matsuyama asked what the time frame between application and distribution is. Ms. Klassen responded that processing would be done as soon as possible once the application was turned in and coordination of Plan Sponsor signature would be top priority.

Chairperson Rapoza clarified that the Board could make a motion to adopt the Disaster provision into the Plan as described in Section 331 of the SECURE 2.0 Act to provide direction to Board staff and Empower to execute the Disaster provision. Ms. Klassen added that the Empower Directive would also need to be signed as an agreement with Empower to provide this provision for the Plan and that the Empower directive has been provided to Board staff for signature. Ms. Tokuda explained that the Board can make a motion to adopt the disaster provision in the Plan but Empower will not implement the Disaster provision until the Empower Directive has been signed.

**A motion was made by Trustee Young and seconded by Trustee Hashimoto to adopt the Disaster Withdrawal Distribution option for the regular section 457(b) Plan which allows participants to take up to a maximum amount in distributions of \$22,000 per disaster under the SECURE 2.0 Act Section 331, the self-certification by participants, and the ability to make repayments to the Plan within three (3) years.**

Trustee Young asked when the Rule Amendment would be done. Ms. Tokuda clarified that for the Rule Amendments, the language from SECURE 2.0 Act Section 331 about the Disaster Withdrawal Distribution would need to be added to the Rules. Chairperson Rapoza asked if the amendments could be expedited, which Mr. Nishiyama confirmed. Chairperson Rapoza asked for an estimated timeframe. Ms. Tokuda answered that she can update the Board on the timeframe for an expedited process. Trustee Young commented that if the Rule Amendments need to be presented to the Board, it would be a timely process.

Ms. Kuroda commented that when the Plan added the CARES Act provision to the Plan, the Board was able to approve and implement the provision in the Plan. IRS guidelines allowed for Rule Amendments for the CARES Act provision to be postponed. Chairperson Rapoza asked how much later the Rule Amendment for the CARES Act provision occurred after implementation. Ms. Klassen answered that an amendment for the Disaster provision is needed, however she does not have a date of execution for the amendments. Ms. Tokuda added that the CARES Act was adopted in the Plan in April 2020, and it is included in the current Rule Amendments along with the Roth option. The Board can adopt the Disaster

provision like how they adopted the CARES Act provision and the Rule Amendment for the provision can be done later. Chairperson Rapoza asked for a timeframe from this meeting until a participant can apply for the Disaster provision. Ms. Klassen answered if the Empower Directive is signed quickly, the participant application can be finalized, and Empower can launch the provision. Chairperson Rapoza commented that the Board and Board staff will review the Empower Directive as quickly as possible and asked Empower to provide a process by the end of September.

**The motion passed unanimously.**

There were no further questions from the Board.

Agenda

Item # 5:

Discussion of the Part-time, Temporary, Seasonal/Casual Plan (PTS Plan) Reports, including:

- a. Approval of Report on Funds Not Deposited in the State/County Treasuries for the Period Ending June 30, 2023

Ms. Tokuda reviewed the Quarterly Plan Asset Report for the Board members for the period ending June 30, 2023. The total combined asset balance in the PTS Plan as of June 30, 2023, totaled \$147,353,615.20.

**A motion was made by Trustee Hashimoto and seconded by Trustee Matsuyama to accept the Report on Funds Not Deposited in the State/County Treasuries for the period ending June 30, 2023.**

**The motion passed unanimously.**

- b. Quarterly Management Report for Period Ending June 30, 2023

The Quarterly Management Report was provided to the Board members for their review.

There were no questions from the Board.

Agenda

Item # 6:

Updates on the Amendments to Title 14, Chapters 41-44, Hawai'i Administrative Rules to Add the Roth 457 option to the Plan

Ms. Tokuda presented the updates on the amendments to the Administrative Rules.

- The last update given on the rule amendments was at the June 28, 2023, meeting where staff updated the Board that a hearing was scheduled on July 26, 2023.

- The public hearing for the proposed amendments occurred on July 26, 2023, and no oral or written testimony was received.
- The proposed rule amendments were approved as to form by the Department of the Attorney General and is with the Governor for his review and approval for adoption.
- The rule amendments are on track for the timeline for implementation of the Roth in January 2024.

Trustee Young asked if there was an estimated time of approval from the Governor. Ms. Tokuda said a follow-up on the progress of the rule amendments can be sent. Trustee Matsuyama asked if there was any testimony received and Ms. Tokuda confirmed there was no testimony received.

Chairperson Rapoza asked if Empower has communications about the Roth addition ready for participants and if participants will be able to make Roth contributions starting January 1, 2024. Ms. Tokuda answered that staff and Empower are working with payroll departments now on payroll programming to handle Roth contributions. Trustee Young commented that if participants wanted to make Roth contribution by the January 5, 2024, pay date, they would have to make their investment changes two pay periods prior. Mr. Tuason explained the Roth option could be available on January 1, 2024, however the Roth contribution would not be deducted from the employees' first paycheck in January. Chairperson Rapoza asked Empower to include this information in the communication to participants. Ms. Klassen commented that a target date of December 1, 2023, was set for initial communications to participants.

Chairperson Rapoza also asked Empower about the Plan's new communications person. Ms. Klassen explained that Ms. Hoxha accepted a new position outside of Empower and Mr. Mader is the new communications person for the Plan. She further commented that she has worked with Mr. Mader on a couple other plans Empower administers. Unfortunately, Mr. Mader was unable to attend this Board Meeting, but Empower would like to introduce him to the Board at a future meeting. Chairperson Rapoza felt it was important the Board was informed of the personnel change for the Plan.

There were no further questions from the Board.

#### Agenda

#### Item #7

#### Other Business/Announcements

- a. Updates on the 2023 National Association of Government Defined Contribution Administrators (NAGDCA) Conference in Seattle, Washington, from October 8-11, 2023

Ms. Tokuda provided details about the upcoming NAGDCA Conference in October.

- Five Trustees and two staff members will be attending the conference in-person and 1 Trustee will attend virtually.
- Conference registrations, hotel reservations, travel itineraries, and per diems have been completed for those attending in-person.
- Trustees and staff should expect to receive their per diem checks on or around September 29, 2023.

Trustee Becker asked about transportation in Seattle. Ms. Tokuda explained that it would be difficult to rent a car due to the different itineraries of the seven attendees. Ms. Tokuda said she could rent a vehicle or attendees can use ride share companies like Uber and Lyft for transportation.

There were no further questions from the Board.

Chairperson Rapoza thanked everyone for their participation in today's meeting. He adjourned the meeting at 9:55 a.m.

Taken and recorded by: LiAnn Tokuda, Board Staff

Reviewed and approved by: Kalei P. Rapoza, Chairperson