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# A BILL FOR AN ACT

RELATING TO VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION TRUSTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Act 245, Session Laws of Hawaii 2005, is  
2 amended by amending section 1 to read as follows:  
3           "SECTION 1. The purpose of this Act is to allow for the  
4 temporary establishment of an employee organization sponsored  
5 trust that would provide health benefits for state and county  
6 employees of a particular bargaining unit, as well as future  
7 retirees of that bargaining unit and existing retirees who wish  
8 to participate in such a trust. The trust would be established  
9 as a voluntary employees' beneficiary association (VEBA) trust  
10 pursuant to section 501(c)(9) of the Internal Revenue Code of  
11 1986, as amended. The trust would be funded by employer  
12 contributions negotiated pursuant to a collective bargaining  
13 agreement and employee contributions to be determined by the  
14 trust's board of trustees for active employees. The Act imposes  
15 on the trust all of the standards and requirements of the  
16 Employee Retirement Income Security Act of 1974, as amended  
17 (ERISA). Even if the trust is deemed to be a governmental plan



1 exempt from ERISA, the legislative intent is that the trust must  
2 comply with the standards and requirements of ERISA as a matter  
3 of state law and that such shall be enforced by the attorney  
4 general as well as participants, beneficiaries, and fiduciaries  
5 of the plan or plans established by the trust.

6 This Act also provides for retiree coverage for any  
7 employee who retires from the State or the counties who was a  
8 member of an employee organization that establishes a VEBA trust  
9 pursuant to a collective bargaining agreement effective on or  
10 after July 1, 2005. Existing retirees who are members of an  
11 employee organization and who were previously covered by a  
12 collective bargaining agreement will be provided a one-time  
13 opportunity to join the VEBA trust once established. Retiree  
14 coverage for existing retirees provided by an employee  
15 organization's VEBA trust would be funded by employer  
16 contributions made directly to the VEBA trust by the employer.

17 The requirement of establishing a VEBA trust in order to be  
18 exempt from participation in the Hawaii employer-union health  
19 benefits trust fund is intended to be a cost containment measure  
20 in response to the ever-increasing costs of health care  
21 throughout the ~~[state-]~~ State. However, because of the lack of  
22 data available on the impact of a VEBA trust on the Hawaii



1 employer-union health benefits trust fund, this Act would allow  
2 the establishment of a VEBA trust pilot program for a period of  
3 three years. During this period, a thorough analysis of the  
4 costs and benefits of a VEBA trust can be evaluated against the  
5 Hawaii employer-union health benefits trust fund to determine  
6 what actual savings could be realized by the State through this  
7 mechanism."

8 SECTION 2. Act 245, Session Laws of Hawaii 2005, is  
9 amended by amending section 8 to read as follows:

10 "SECTION 8. This Act shall take effect upon its approval,  
11 for the purpose of establishing a voluntary [employees]  
12 employees' beneficiary association trust pilot program in March,  
13 2006 and shall be repealed on July 1, [~~2008~~] 2009; provided  
14 that sections 89-2, 89-3, 89-6, and 89-9, Hawaii Revised  
15 Statutes, are reenacted in the form in which they read on the  
16 day before the effective date of this Act."

17 SECTION 3. Act 245, Session Laws of Hawaii 2005, is  
18 amended by adding a new section to read as follows:

19 "SECTION 7A. Any employee organization that establishes a  
20 voluntary employees' beneficiary association trust in March,  
21 2006 and pursuant to this Act shall submit a report to the  
22 legislature on the status of the trust no later than one hundred



1 fifty days after two full plan years of the trust's  
2 implementation, and annually thereafter. A plan year is defined  
3 as the twelve-month period from July 1 through June 30."

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

VEBA Trusts

**Description:**

Extends the sunset date of Act 245, SLH 2005, to 2009. Requires employee organizations that establish VEBA trusts to report to the legislature after two full years of implementation and annually thereafter. (SD2)

