HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

H.B. NO. 887 H.D. 1

A BILL FOR AN ACT

RELATING TO UNFUNDED LIABILITIES.

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

SECTION 1. The legislature finds that as of July 2, 2015, the unfunded portion of the actuarial accrued liability of the Hawaii employer-union health benefits trust fund (EUTF) was $11,772,008,000. This is $969,745,000 more than the total revenues for the State for fiscal year 2015.

To address this unfunded liability, Act 268, Session Laws of Hawaii 2013, requires the State and counties to prefund other post-employment health and other benefit plan costs for retirees and their beneficiaries by making annual contributions to the other post-employment benefits trust fund (OPEB trust fund). State, county, and other public employers' annual contributions to the OPEB trust fund for fiscal year 2017 will total $306,777,000. Commencing in 2019 and continuing for the next thirty years, the contribution amount will ramp up to an estimated $500,000,000 per year.

Meanwhile, the State, counties, and other public employers are also required to make payments to cover a portion of pay-as-you-go EUTF costs. This includes premium costs which have increased from $505,000,000 in fiscal year 2004 to about $1,006,000,000 in fiscal year 2016. During fiscal year 2015-2016 alone, premiums rose from $900,700,000 to over $1,000,000,000, an increase of almost $100,000,000. Clearly, given current and projected revenues, the State and the counties cannot afford to prefund both health and pension unfunded liabilities, which total over $800,000,000 per year. A more affordable and less painful solution is necessary. To ease the fiscal pressure on public employers and taxpayers, much more needs to be done.

At first glance, strategies that could address the unfunded liabilities crisis include:

(1) Raising revenues by increasing the state general excise tax and county property taxes;

(2) Reducing benefits to state and county employees;

(3) Reducing the public employment workforce;

(4) Increasing employee contributions; or

(5) A combination of any of the above.

These strategies are not feasible and if implemented will cause several new problems. Raising the general excise tax is viewed as a regressive policy that disproportionately impacts those who can least afford it. Raising property taxes may leave property owners and landlords feeling unfairly targeted and these tax increases will likely be passed on to property renters. Any reduction in public employment benefits would be unfair to public employees, retirees, and their dependents who were promised health care benefits under the terms of their employment. Finally, reducing the public employment workforce may adversely impact government operations, the provision of essential public services, and the state economy.

Survival and taking control of our destiny is the goal of this Act. The future of our children and grandchildren depends on sound fiscal planning, which includes stabilizing the Hawaii employer-union health benefits trust fund and Hawaii employees' retirement system to achieve savings to support state and county needs.

Accordingly, this Act:

(1) Caps public employer prefunding to the OPEB trust fund once the separate accounts for each public employer have a combined subaccount balance of at least $2,000,000,000. Most state governments follow a pay-

as-you-go approach and prefunding of post-employment benefits is not mandated by the other post-employment benefits standards set forth by the Governmental Accounting Standards Board; and

(2) Thereafter, transfers any investment income and interest from the OPEB trust fund to a newly established rate stabilization reserve fund, which will provide reserve funding to stabilize the Hawaii employer-union health benefits trust fund at times when that trust fund has insufficient moneys to cover the costs of providing health and other benefits plans for active employees and retirees and their beneficiaries.

The EUTF projects a seven per cent investment return on funds in the OPEB trust fund, which amounts to an estimated $140,000,000 that will be deposited into the rate stabilization reserve fund each year.

Pursuant to section 37-69, Hawaii Revised Statutes, every odd-numbered year the governor is required to prepare a six-year program and financial plan for the State encompassing all state programs. By not requiring OPEB prefunding through 2049, this

Act will lead to a more balanced six-year program and financial plan and will free up moneys for important state, county, and other public employee services, projects, and needs. This could include, for example, providing funds for the employees' retirement system, labor costs of collective bargaining units, education, homelessness, affordable housing, state road repairs, the city and county of Honolulu's rail transit system, and other pressing needs.

Accordingly, this Act also:

(1) Diverts $300,000,000 of public employer annual contributions to prefund the unfunded liabilities of the employees' retirement system when the other post-employment benefits trust fund separate accounts for each public employer within the separate trust fund have a combined balance of at least $2,000,000,000; and

(2) Provides for the use of a portion of the transient accommodations tax revenues to supplement deficient county public employer contribution amounts if necessary.

SECTION 2. Chapter 87A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§87A-   Rate stabilization reserve fund; establishment; purpose.** (a) There is established a rate stabilization reserve fund to be placed within the employer-union health benefits trust fund for administrative purposes.

(b) The rate stabilization reserve fund may cover the increasing costs of providing health and other benefit plans for active employees and retirees and their beneficiaries as required by this chapter. A separate account for each public employer shall be established and maintained to accept and account for each public employer's contributions. Unless otherwise specified by law, the rate stabilization reserve fund shall not be subject to appropriation for any purpose and shall not be subject to claims by creditors of employers or the board.

(c) The rate stabilization reserve fund shall consist of:

(1) Moneys transferred from the Hawaii employer-union health benefits trust fund established by section 87A-30 and the other post-employment benefits trust fund established by section 87A-42;

(2) Interest from the separate trust fund established to prefund other post-employment health and other benefits plan costs for members and their beneficiaries pursuant to section 87A-42 and interest from the rate stabilization reserve fund; and

(3) Appropriations from the legislature.

(d) The rate stabilization reserve fund shall meet the requirements of the Governmental Accounting Standards Board regarding employment benefits trusts."

SECTION 3. Section 87A-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [~~The fund, including any earnings on investments, and rate credits or reimbursements from any carrier or self-insured plan and any earning or interest derived therefrom, may be used to stabilize health and other benefit plan rates; provided that the approval of the governor and the legislature shall be necessary to fund administrative and other expenses necessary to effectuate these purposes.~~] All unencumbered and unexpended moneys in excess of $2,000,000,000 remaining in the fund at the end of each fiscal year shall be transferred to the rate stabilization reserve fund established in section 87A- ."

SECTION 4. Section 87A-42, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) Notwithstanding sections 87A-31 and 87A-31.5, the board, upon terms and conditions set by the board, shall establish and administer a separate trust fund for the purpose of receiving employer contributions that will prefund other post-employment health and other benefit plan costs for retirees and their beneficiaries. The separate trust fund shall meet the requirements of the [~~Government~~] Governmental Accounting Standards Board regarding other post-employment benefits trusts. The board shall establish and maintain a separate account for each public employer within the separate trust fund to accept and account for each public employer's contributions. Employer contributions to the separate trust fund shall be irrevocable, all assets of the fund shall be dedicated exclusively to providing health and other benefits to retirees and their beneficiaries, and assets of the fund shall not be subject to appropriation for any other purpose and shall not be subject to claims by creditors of the employers or the board or plan administrator. The board's powers under section 87A-24 shall also apply to the fund established pursuant to this section. Notwithstanding any law to the contrary, once the separate accounts for each public employer within the separate trust fund have a combined balance of at least $2,000,000,000, any earnings from the $2,000,000,000 remaining in the separate trust fund at the end of each fiscal year shall be transferred to the separate public employer accounts within the rate stabilization reserve fund established in section 87A-   . Unless otherwise specified by law, the $2,000,000,000 and the separate trust fund shall not be subject to appropriation for any purpose and shall not be subject to claims by creditors of employers or the board.

(b) Public employer contributions shall be paid into the fund in each fiscal year, and commencing with the 2018-2019 fiscal year, the amount of the annual public employer contribution shall be equal to the amount of the annual required contribution, as determined by an actuary retained by the board[~~.~~]; provided that once the separate accounts for each public employer within the separate trust fund have a combined balance of at least $2,000,000,000, then public employer annual contributions in the amount of $300,000,000 shall instead be paid to the employees' retirement system established in section 88-109 to prefund the employees' retirement system."

2. By amending subsection (d) to read:

"(d) In any fiscal year [~~subsequent to the 2017-2018 fiscal year~~] in which a county public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the applicable fund pursuant to this section from a portion of all transient accommodations tax revenues collected by the department of taxation under section 237D-6.5(b)(4). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section 237D-6.5(b)(4) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund."

3. By amending subsection (f) to read:

"(f) For the purposes of this section, "annual required contribution" means a public employer's required contribution to the trust fund established in this section [~~that is sufficient to cover:~~

~~(1) The normal cost, which is the cost of other post-employment benefits attributable to the current year of service; and~~

~~(2) An amortization payment, which is a catch-up payment for past service costs to fund the unfunded actuarial accrued liability over the next thirty years~~]."

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

SECTION 6. This Act shall take effect on July 1, 2030.

H.B. NO. 887 H.D. 1

Report Title:
Other Post-Employment Benefits; Unfunded Liability; EUTF

Description:
Establishes the Rate Stabilization Reserve Fund within the Hawaii Employer-Union Health Benefits Trust Fund to help subsidize the costs of providing health and other benefit plans for active employees and retirees and their beneficiaries. Caps employer contributions to the OPEB trust fund, which are made to prefund the unfunded actuarial accrued liability of the EUTF, when the separate accounts for each public employer within the OPEB trust fund have a combined balance of at least $2,000,000,000. If OPEB trust fund balance is at least $2,000,000,000 then public employer annual contributions of $300,000,000 shall be paid to the Employees' Retirement System to pay down ERS unfunded liabilities. Provides for the use of a portion of transient accommodations tax revenues to supplement deficient county public employer contribution amounts. (HB887 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.