

ACT 268

H.B. NO. 546

A Bill for an Act Relating to the Hawaii Employer-Union Health Benefits Trust Fund.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The purpose of this part is to convene a task force in the department of budget and finance to examine the unfunded liability of the Hawaii employer-union health benefits trust fund.

SECTION 2. (a) There is established a Hawaii employer-union health benefits trust fund task force within the department of budget and finance for administrative purposes to consist of the following members:

- (1) Two members from the house of representatives selected by the speaker of the house of representatives;
- (2) Two members from the senate selected by the senate president;
- (3) The director of finance, or the director's designee;
- (4) One member from the Hawaii Council of Mayors;
- (5) One member from the Hawaii State Association of Counties;
- (6) Four members representing public sector unions who shall be invited to participate by the director of finance;
- (7) One member representing public employee retirees who shall be invited to participate by the director of finance; and
- (8) Four members representing the respective interests of the four counties who shall be selected by the governor.

The director of finance, or the director's designee, shall serve as the chairperson of the task force. The task force shall cease to exist on June 30, 2014.

(b) The members of the task force shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of that task force.

SECTION 3. The Hawaii employer-union health benefits trust fund task force shall examine the unfunded liability of the Hawaii employer-union health benefits trust fund (trust fund), including:

- (1) The current and projected unfunded actuarial accrued liability of the trust fund;
- (2) The availability of medical benefits plans other than plans that pay or reimburse medical services providers under a fee-for-service model;
- (3) The costs and benefits of alternative medical benefits plans in relation to the medical benefits plans currently offered by the trust fund;
- (4) An evaluation of the costs and process of transitioning from the current medical benefits plans to an alternative medical benefits plan, including recommended proposed legislation;
- (5) An evaluation of the current structure of state and county public employers paying a percentage of health insurance policy premiums and providing recommendations for a benefits plan for prospective employees; and
- (6) Any other matters that are relevant to gaining a full and meaningful understanding of the circumstance of the trust fund.

SECTION 4. The director of finance, in consultation with the task force, shall submit a report to the legislature, including findings, recommendations, and proposed legislation, no later than twenty days prior to the convening of the regular session of 2014.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$185,750 or so much thereof as may be necessary for fiscal year 2013-2014 to support the work of the Hawaii employer-union health benefits trust fund task force, including necessary travel expenses for task force members who reside outside of Oahu and consulting services of persons knowledgeable in relevant issues.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.

PART II

SECTION 6. Chapter 87A, Hawaii Revised Statutes, is amended by adding two new sections to part IV to be appropriately designated and to read as follows:

“§87A-A Public employers; defined. For the purposes of this part, “public employer” means a governmental entity whose employees’, beneficiaries’, and retirees’ health benefits coverage is provided through the fund.

§87A-B Payment of public employer contributions to the other post-employment benefits trust. (a) Commencing with fiscal year 2018-2019, each of the counties and all other public employers shall make annual required contributions in accordance with section 87A-42 for the benefit of their retirees and beneficiaries.

(b) The board shall determine the annual required contribution owed by each public employer under this part for each fiscal year, beginning with fiscal year 2018-2019.”

SECTION 7. Section 87A-24, Hawaii Revised Statutes, is amended to read as follows:

“§87A-24 Other powers. In addition to the power to administer the fund, the board may:

- (1) Collect, receive, deposit, and withdraw money on behalf of the fund;
- (2) Invest moneys in the same manner specified in section 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6), and (7);
- (3) Hold, purchase, sell, assign, transfer, or dispose of any securities or other investments of the fund, as well as the proceeds of those investments and any money belonging to the fund;
- (4) Appoint, and at pleasure dismiss, an administrator and other fund staff. The administrator and staff shall be exempt from chapter 76 and shall serve under and at the pleasure of the board;
- (5) Make payments of periodic charges and pay for reasonable expenses incurred in carrying out the purposes of the fund;
- (6) Contract for the performance of financial audits of the fund and claims audits of its insurance carriers;
- (7) Retain auditors, actuaries, investment firms and managers, benefit plan consultants, or other professional advisors to carry out the purposes of this chapter[;], including the retaining of an actuary to determine the annual required public employer contribution for the separate trust fund established under section 87A-42;
- (8) Establish health benefits plan and long-term care benefits plan rates that include administrative and other expenses necessary to effectuate the purposes of the fund; and
- (9) Require any department, agency, or employee of the State or counties to furnish information to the board to carry out the purposes of this chapter.”

SECTION 8. Section 87A-42, Hawaii Revised Statutes, is amended to read as follows:

~~[[§87A-42]]~~ **Other post-employment benefits trust.** (a) Notwithstanding sections 87A-31 and 87A-31.5, the board, upon terms and conditions set by the board, ~~[may]~~ 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. ~~[If a fund is established, it]~~ The separate trust fund shall meet the requirements of the Government 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 ~~[any]~~ the fund established pursuant to this section.

(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.

(c) In any fiscal year subsequent to the 2017-2018 fiscal year in which the state 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 state public employer's contributions shall be deposited into the appropriate account of the separate trust fund from a portion of all general excise tax revenues collected by the department of taxation under section 237-31.

If any general excise tax revenues are deposited into the separate trust fund in any fiscal year as a result of this subsection, the director of finance shall notify the legislature and governor whether the general fund expenditure ceiling for that fiscal year would have been exceeded if those revenues had been legislatively appropriated instead of deposited without appropriation into the trust fund. The notification shall be submitted within thirty days following the end of the applicable fiscal year.

(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 fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section 237D-6.5(b)(3). 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)(3) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.

(e) In any fiscal year subsequent to fiscal year 2017-2018 in which a public employer's contributions into the fund are less than the amount of the annual required contribution and the public employer is not entitled to transient accommodations tax revenues sufficient to satisfy the total amount of the annual required contribution, the public employer's contributions shall be deposited into the fund from portions of any other revenues collected on behalf of the public employer or held by the State. The director of finance shall deduct the amount necessary to meet the public employer's annual required contribution from any revenues collected on behalf of the public employer held by the State

and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.

(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 9. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

“§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier’s check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

- (1) The sum from all general excise tax revenues realized by the State that represents the difference between \$45,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund;
- (2) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund; ~~and~~
- (3) A sum from all general excise tax revenues realized by the State that is equal to one-half of the total amount of funds appropriated or transferred out of the hurricane reserve trust fund under sections 4 and 5 of Act 62, Session Laws of Hawaii 2011, shall be deposited into the hurricane reserve trust fund in fiscal year 2013-2014 and in fiscal year 2014-2015; provided that the deposit required in each fiscal year shall be made by October 1 of that fiscal year~~[-]; and~~
- (4) Commencing with fiscal year 2018-2019, a sum from all general excise tax revenues realized by the State that represents the difference between the state public employer’s annual required contribution for the separate trust fund established under section 87A-42 and the amount of the state public employer’s contributions into that trust fund shall be deposited to the credit of the State’s annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42.”

SECTION 10. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter, except for revenues collected under section 237D-2(b), shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) 17.3 per cent of the revenues collected under this chapter shall be deposited into the convention center enterprise special fund established under section 201B-8; provided that beginning January 1,

2002, if the amount of the revenue collected under this paragraph exceeds \$33,000,000 in any fiscal year, revenues collected in excess of \$33,000,000 shall be deposited into the general fund;

- (2) 34.2 per cent of the revenues collected under this chapter shall be deposited into the tourism special fund established under section 201B-11 for tourism promotion and visitor industry research; provided that for any period beginning on July 1, 2012, and ending on June 30, 2015, no more than \$71,000,000 per fiscal year shall be deposited into the tourism special fund established under section 201B-11; provided further that beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii; and provided further that beginning on July 1, 2002, of the first \$1,000,000 in revenues deposited:
- (A) Ninety per cent shall be deposited into the state parks special fund established in section 184-3.4; and
 - (B) Ten per cent shall be deposited into the special land and development fund established in section 171-19 for the Hawaii statewide trail and access program;

provided that of the 34.2 per cent, 0.5 per cent shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; provided further that of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund; and

- (3) 44.8 per cent of the revenues collected under this chapter shall be transferred as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that for any period beginning on July 1, 2011, and ending on June 30, 2015, the total amount transferred to the counties shall not exceed \$93,000,000 per fiscal year[-]; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-B.

Revenues collected under section 237D-2(b) shall be deposited into the general fund. All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, “fiscal year” means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.”

SECTION 11. Notwithstanding the amount of a public employer annual required contribution determined in any fiscal year by an actuary retained by the board for this purpose, for the five-year fiscal period from 2014-2015 to 2018-2019, public employer contributions into the separate trust fund established under section 87A-42, Hawaii Revised Statutes, shall be at the specified percentages of the respective annual required contributions, as follows:

	<u>Fiscal Year</u>	<u>Annual Required Contribution</u>
(1)	2014-2015	Twenty per cent;
(2)	2015-2016	Forty per cent;
(3)	2016-2017	Sixty per cent;
(4)	2017-2018	Eighty per cent; and
(5)	2018-2019	One hundred per cent.

SECTION 12. Not less than twenty days prior to the convening of the regular session of 2015, the director of finance, in order to maximize the efficient use of resources and public funds, shall submit an implementation plan and any proposed legislation to the legislature to execute the following:

- (1) Joint use of any investment information, advice, and services provided by fund managers retained by the board of trustees of the employees’ retirement system with the board of trustees of the employer-union health benefits trust fund for the purpose of investing moneys contained in the separate trust fund established under section 87A-42, Hawaii Revised Statutes; and
- (2) Procedures to accept and deposit employer contributions from county public employers into the separate trust fund established under section 87A-42, Hawaii Revised Statutes.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the department of budget and finance to conduct a study and develop an implementation plan to have both the employer-union health benefits trust fund and the employees’ retirement system jointly share investment information and services.

The sums appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 14. In codifying the new sections added by section 6 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 16. This Act shall take effect on July 1, 2013; provided that the amendments made to section 237D-6.5, Hawaii Revised Statutes, in section 10 of this Act shall not be repealed when section 237D-6.5, Hawaii Revised Statutes, is repealed and reenacted on June 30, 2015, pursuant to Act 61, Session Laws of Hawaii 2009, and Act 103, Session Laws of Hawaii 2011.

(Approved July 3, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.