

ACT 229

H.B. NO. 468

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:

SECTION 1. The purpose of this Act is to temporarily suspend the requirement for public employers to make annual required contributions to the Hawaii Employer-Union Health Benefits Trust Fund through fiscal year 2022-2023.

SECTION 2. 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;

- (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 shall be exempt from chapter 76. Other fund staff may be exempt from chapter 76 as determined by the board. The administrator and staff who are exempt from chapter 76 shall serve under and at the pleasure of the board; provided that civil service exempt positions under this section that are created after July 1, 2014, shall be exempt from section 76-16(b)(17)(A);
- (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 3. 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, 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 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.

~~[(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)(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.~~

~~(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 4. 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) 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
- (2) 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
 [(3)] ~~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 5. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) \$16,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) \$79,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
 - (A) 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;
 - (B) Of the \$79,000,000 allocated:
 - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance; and
 - (ii) 0.5 per cent of the \$79,000,000 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; and
 - (C) 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 special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund;
- (4) \$103,000,000 shall be allocated 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 coun-

ty shall receive 22.8 per cent[; 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-43]; and

- (5) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:
- (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;
 - (B) Planning, construction, and repair of facilities; and
 - (C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

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 6. Section 37B-3, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 87A-43, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2021; provided that on June 30, 2023, this Act shall be repealed and sections 37B-3, 87A-24, 87A-42, 87A-43, 237-31, and 237D-6.5(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.