
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Act 245, Session Laws of Hawaii 2005, as
2 amended by Act 294, Session Laws of Hawaii 2007, is amended as
3 follows:

4 1. By amending sections 1 and 2 to read:

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



1 Employee Retirement Income Security Act of 1974, as amended
2 (ERISA). Even if the trust is deemed to be a governmental plan
3 exempt from ERISA, the legislative intent is that the trust must
4 comply with the standards and requirements of ERISA as a matter
5 of state law and that such shall be enforced by the attorney
6 general as well as participants, beneficiaries, and fiduciaries
7 of the plan or plans established by the trust.

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

19 The requirement of establishing a VEBA trust in order to be
20 exempt from participation in the Hawaii employer-union health
21 benefits trust fund is intended to be a cost containment measure
22 in response to the ever-increasing costs of health care



1 throughout the State. However, because of the lack of data
2 available on the impact of a VEBA trust on the Hawaii employer-
3 union health benefits trust fund, this Act would allow the
4 establishment of a VEBA trust pilot program for a period of
5 [~~three~~] five years. During this period, a thorough analysis of
6 the costs and benefits of a VEBA trust can be evaluated against
7 the Hawaii employer-union health benefits trust fund to
8 determine what actual savings could be realized by the State
9 through this mechanism.

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 **"CHAPTER**

14 **VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION TRUSTS**

15 **§ -1 Definitions.** As used in this chapter:

16 "Beneficiary" means a person designated by a participant,
17 or by the terms of an employee welfare benefit plan, who is or
18 may become entitled to a benefit thereunder.

19 "Collective bargaining agreement" means the formal written
20 agreement over wages, hours, amounts of contributions by the
21 State and counties to a trust established under this chapter,
22 and other terms and conditions of employment, entered into



1 between an employer and the exclusive representatives of the
2 employees of the employer.

3 "Contribution" means money payments made to the trust by
4 the State, counties, or a state or county employee.

5 "Employee" or "public employee" means any person employed
6 by a public employer except elected and appointed officials and
7 other employees excluded from coverage in section 89-6(g).

8 "Employee organization" means the employee organization as
9 defined in section 89-2.

10 "Employee welfare benefit plan" or "plan" shall mean any
11 plan, fund, or program [~~which~~] that is established by the trust
12 for the purpose of providing participants or their
13 beneficiaries, through the purchase of insurance or otherwise,
14 medical, surgical, or hospital care or benefits, or benefits in
15 the event of sickness, accident, disability, or death.

16 "Employer" or "public employer" means "employer" or "public
17 employer" as defined in section 89-2.

18 "Exclusive representative" means "exclusive representative"
19 as defined in section 89-2.

20 "Fiduciary" means any person, with respect to a plan, to
21 the extent that [~~such~~] the person:



1 (1) Exercises any discretionary authority or discretionary
2 control respecting management of [~~such~~] the plan or
3 exercises authority or control respecting management
4 or disposition of its assets;

5 (2) Renders investment advice for a fee or other
6 compensation, direct or indirect, with respect to any
7 moneys or other property of [~~such~~] the plan, or has
8 authority or responsibility to do so; or

9 (3) Has any discretionary authority or discretionary
10 responsibility in the administration of [~~such~~] that
11 plan.

12 Without limiting the foregoing, "fiduciary" shall include each
13 trustee of the trust.

14 "Participant" means any employee or retiree who is a member
15 of the trust and is eligible to receive benefits under an
16 employee welfare benefit plan provided by or through the trust.

17 "Party in interest" means:

- 18 (1) Any fiduciary, counsel, or employee of the trust;
19 (2) A person providing services to the trust or its plans;
20 (3) An employer, any of whose employees are covered by
21 [~~such~~] the plans; and



1 (4) An employee organization, any of whose members are
2 covered by the trust's plans.

3 "Retiree" means an individual who has retired from the
4 State or its counties.

5 "Trust" means a voluntary employees' beneficiary
6 association trust established under this chapter.

7 **§ -2 Establishment of the trust.** [~~a~~] An employee
8 organization shall be exempt from chapter 87A and meet the
9 following requirements in order to establish a voluntary
10 employees' beneficiary association trust under this chapter:

11 (1) The employee organization shall establish a tax-exempt
12 trust pursuant to Title 26 United States Code section
13 501(c)(9), as amended, and related regulations, known
14 as a voluntary employees' beneficiary association
15 trust;

16 (2) The trust may offer health benefits in accordance with
17 Title 26 United States Code section 501(c)(9), as
18 amended, and related regulations;

19 (3) The trust shall meet all the standards and
20 requirements applicable to employee welfare benefit
21 plans under Title 29 United States Code sections
22 1001-1191, as amended, and related regulations. The



1 assets of any plan provided by or through the trust
2 shall not inure to the benefit of any employee
3 organization and shall be held for the exclusive
4 purposes of providing benefits to participants and
5 beneficiaries and defraying reasonable expenses of
6 administration; provided that this shall not preclude
7 the trust from returning contributions or payments
8 made by an employer under a mistake of fact within one
9 year after the payment of the contributions or
10 payments;

11 (4) Each plan offered by the trust shall be established
12 and maintained pursuant to a written instrument that:

13 (A) Provides a procedure for establishing and
14 carrying out a funding policy and method
15 consistent with the objectives of the plan and
16 the requirements of this chapter;

17 (B) Describes any procedure under the plan for the
18 allocation of responsibilities for the operation
19 and administration of the plan;

20 (C) Provides a procedure for amending the plan;

21 (D) Specifies the basis on which payments are made to
22 and from the plan; and



- 1 (E) Provides a procedure for providing adequate
2 notice in writing to any participant or
3 beneficiary whose claim for benefits has been
4 denied, setting forth the specific reasons for
5 [~~such~~] the denial, and affording a reasonable
6 opportunity for any participant whose claim has
7 been denied for a full and fair review. The
8 written instrument shall meet any other standards
9 and requirements of Title 29 United States Code
10 [~~section~~] sections 1001-1191, as amended, and
11 related regulations;
- 12 (5) The trust shall provide a summary plan description,
13 material modifications or amendments to the summary
14 plan description, and updates to the summary plan
15 description that meet the standards and requirements
16 of this chapter;
- 17 (6) All of the assets of the trust's plans shall be held
18 in trust by the governing board of the trust, at least
19 one member of which shall be a retiree and a member of
20 the employee organization sponsoring the trust[-];
- 21 (7) The governing board of the trust shall hold regularly
22 scheduled meetings open to all participants and



1 beneficiaries and shall provide [~~such~~] those persons
2 with advance notice of all meetings; and

3 (8) The employee organization shall have an applicable
4 collective bargaining agreement with the employer;
5 provided that the agreement shall specify that the
6 employee organization agrees to comply with all
7 requirements of this chapter without regard to whether
8 or not the trust is deemed a governmental plan under
9 federal law.

10 **§ -3 Summary plan description.** (a) Each summary plan
11 description provided under this chapter shall be written in a
12 manner calculated to be understood by the average plan
13 participant, and shall be sufficiently accurate and
14 comprehensive to reasonably apprise participants and
15 beneficiaries of their rights and obligations under the plan. A
16 summary of any material modification in the terms of the plan
17 shall be written in a manner calculated to be understood by the
18 average participant.

19 (b) The summary plan description shall contain the
20 following information:

21 (1) The name and type of administration of the plan;



- 1 (2) In the case of a group health plan, whether a health
2 insurance issuer is responsible for the financing or
3 administration (including payment of claims) of the
4 plan and if so, the name and address of [~~such~~] the
5 issuer;
- 6 (3) The name and address of the person designated as agent
7 for the service of legal process, if [~~such~~] the person
8 is not the administrator;
- 9 (4) The name and address of the administrator;
- 10 (5) The names, titles, and addresses of any trustee or
11 trustees;
- 12 (6) A description of the relevant provisions of any
13 applicable collective bargaining agreement;
- 14 (7) The plan's requirements respecting eligibility for
15 participation and benefits;
- 16 (8) Circumstances that may result in disqualification,
17 ineligibility, or denial or loss of benefits;
- 18 (9) The source of financing of the plan and the identity
19 of any organization through which benefits are
20 provided;



1 (10) The date of the end of the plan year and whether
2 records of the plan are kept on a calendar, policy, or
3 fiscal year basis; and

4 (11) The procedures to be followed in presenting claims for
5 benefits under the plan and the remedies available
6 under the plan procedures.

7 The summary plan description shall contain any other
8 information required under Title 29 United States Code sections
9 1001-1191, as amended, and related regulations.

10 **§ -4 Annual report.** (a) The trust shall publish an
11 annual report with respect to every employee welfare benefit
12 plan to which this chapter applies. The report shall be filed
13 with the department of accounting and general services and the
14 respective departments of the counties as their interests may
15 appear.

16 (b) The annual report shall contain the following:

17 (1) The number of employees, retirees, and other persons
18 covered by the plan;

19 (2) The name and address of each fiduciary;

20 (3) Except in the case of a person whose compensation is
21 minimal and who performs solely ministerial duties,
22 the name of each person (including but not limited to



1 any consultant, broker, trustee, accountant, insurance
2 carrier, actuary, administrator, investment manager,
3 or custodian who rendered services to the plan or who
4 had transactions with the plan) who received directly
5 or indirectly compensation from the plan during the
6 preceding plan year for services rendered to the plan
7 or its participants, the amount of [~~such~~] the
8 compensation, the nature of the person's services to
9 the plan or its participants, the person's
10 relationship to the employee organization, and any
11 other office, position, or employment that the person
12 holds with a party in interest;

13 (4) An explanation of the reason for any change in
14 appointment of any trustee, accountant, insurance
15 carrier, enrolled actuary, administrator, investment
16 manager, or custodian; and

17 (5) A financial statement that meets the requirements of
18 this chapter.

19 The annual report shall contain any other information
20 required by Title 29 United States Code sections 1001-1191, as
21 amended, and related regulations.



1 (c) The financial statement of the annual report shall
2 contain the following information with respect to an employee
3 welfare benefit plan:

- 4 (1) A statement of assets and liabilities;
- 5 (2) A statement of changes in fund balance;
- 6 (3) A statement of changes in financial position;
- 7 (4) A statement of receipts and disbursements during the
8 preceding twelve-month period;
- 9 (5) A schedule of all assets held for investment purposes;
- 10 (6) A schedule of each transaction involving a person
11 known to be a party in interest;
- 12 (7) A schedule of all loans or fixed income obligations
13 [~~which~~] that were in default as of the close of the
14 plan's fiscal year or were classified during the year
15 as uncollectible;
- 16 (8) A list of all leases that were in default or were
17 classified during the year as uncollectible;
- 18 (9) If some or all of the assets of the plan or plans are
19 held in a common or collective trust maintained by a
20 bank or similar institution or in a separate account
21 maintained by an insurance carrier or a separate trust
22 maintained by an insurance carrier or a separate trust



1 maintained by a bank as trustee, the most recent
2 annual statement of assets and liabilities of [~~such~~]
3 the common or collective trust, and in the case of a
4 separate account or a separate trust, [~~such~~] any other
5 information [~~as~~] that is required by the administrator
6 in order to comply with this chapter; and

7 (10) A schedule of each reportable transaction.

8 The financial statement shall contain any other information
9 required under Title 29 United States Code sections 1001-1191,
10 as amended, and regulated regulations.

11 **§ -5 Filing and furnishing of information requirements.**

12 (a) Once established, the trust shall comply with all the form
13 and report filing requirements imposed on the trust by the
14 Internal Revenue Service and Title 29 United States Code
15 sections 1001-1191, as amended, and regulated regulations.

16 (b) Within two hundred ten days of the closing of each
17 plan year, the trust shall provide an annual report for each
18 employee welfare benefit plan covered by this chapter to the
19 department of accounting and general services and the respective
20 departments of the counties as their interests may appear. The
21 annual reports shall be government records open to public
22 inspection.



1 (c) The trust shall provide summary plan descriptions to
2 each participant and beneficiary of each employee welfare
3 benefit plan covered by this chapter within ninety days of a
4 participant becoming enrolled in a plan or within ninety days of
5 a beneficiary first receiving benefits under a plan. No less
6 frequently than every fifth year after a plan is established,
7 the trust shall provide updated summary plan descriptions to
8 each participant and beneficiary. If a material modification or
9 amendment is made to a plan, the trust shall provide a summary
10 description of [~~such~~] the modification or amendment to each
11 participant or beneficiary within two hundred ten days after the
12 plan year in which the modification or amendment is made.

13 (d) Upon request of any participant or beneficiary, the
14 trust shall provide [~~such~~] the person with the latest updated
15 summary plan description, the latest annual report, the
16 applicable collective bargaining agreement, the trust agreement,
17 and any other instruments under which the trust and plan were
18 established or are operated.

19 (e) The trust shall file a copy of all documents
20 referenced in subsections (a) and (c) with the department of
21 human resources development and the respective departments of
22 the counties as their interests may appear.



1 § -6 **Fiduciary duties; prohibited transactions.** (a) A
2 fiduciary of the trust [~~shall~~], with respect to a plan, shall
3 comply with all fiduciary duties imposed on fiduciaries under
4 Title 29 United States Code sections 1001-1191, as amended, and
5 regulated regulations.

6 (b) All fiduciaries of the trust shall discharge their
7 duties with respect to a plan solely in the interest of the
8 participants and beneficiaries and:

9 (1) For the exclusive purpose of:

10 (A) Providing benefits to participants and their
11 beneficiaries; and

12 (B) Defraying reasonable expenses of administering
13 the plan;

14 (2) With the care, skill, prudence, and diligence under
15 the circumstances then prevailing that a prudent
16 person acting in a similar capacity and familiar with
17 those matters would use in the conduct of an
18 enterprise of a similar character and with like aims;

19 (3) By diversifying the investments of the plan so as to
20 minimize the risk of large losses, unless, under the
21 circumstances, it is clearly prudent not to do so; and



1 (4) In accordance with the documents and instruments
2 governing the plan insofar as [~~such~~] the documents and
3 instruments are consistent with the provisions of this
4 chapter.

5 (c) In addition to any liability that a fiduciary may have
6 under this chapter, a fiduciary with respect to a plan shall be
7 liable for a breach of fiduciary responsibility of another
8 fiduciary with respect to the same plan in the following
9 circumstances:

10 (1) If the fiduciary participates knowingly in, or
11 knowingly undertakes to conceal, an act or omission of
12 the other fiduciary, knowing that act or omission is a
13 breach;

14 (2) If, by the fiduciary's failure to comply with
15 subsection (a) or (b), the fiduciary has [~~been~~]
16 enabled [~~such~~] the other fiduciary to commit breach;
17 or

18 (3) If the fiduciary has knowledge of the breach by [~~such~~]
19 the other fiduciary, unless the fiduciary makes
20 reasonable efforts under the circumstances to remedy
21 the breach.



1 If the assets of the plan are held by two or more trustees,
2 each shall use reasonable care to prevent a co-trustee from
3 committing a breach, and each shall be responsible for jointly
4 managing and controlling the assets of the plan.

5 (d) A fiduciary shall not cause a plan to engage in a
6 transaction, if the fiduciary knows or should know that the
7 transaction constitutes a direct or indirect:

- 8 (1) Sale or exchange, or leasing, of any property between
9 the plan and a party in interest;
- 10 (2) Lending of money or other extension of credit between
11 the plan and a party in interest;
- 12 (3) Furnishing of goods, services, or facilities between
13 the plan and a party in interest; or
- 14 (4) Transfer to, or use by or for the benefit of, a party
15 in interest, of any assets of the plan.

16 (e) A fiduciary shall not:

- 17 (1) Deal with the assets of the plan in the fiduciary's
18 own interest or for the fiduciary's own account;
- 19 (2) In the fiduciary's individual capacity or in any other
20 capacity act in any transaction involving the plan on
21 behalf of a party (or represent a party) whose



1 interests are adverse to the interests of the plan or
2 the interests of its participants or beneficiaries; or
3 (3) Receive any consideration for the fiduciary's own
4 personal account from any party dealing with the plan
5 in connection with a transaction involving the assets
6 of the plan.

7 **§ -7 Liability for breach of fiduciary duty.** (a) Any
8 person who is a fiduciary with respect to a plan and who
9 breaches any of the responsibilities, obligations, or duties
10 imposed on fiduciaries by this chapter shall be personally
11 liable to make good to the plan any losses to the plan resulting
12 from each breach, and to restore to the plan any profits of the
13 fiduciary that have been made through the use of assets of the
14 plan by the fiduciary, and shall be subject to any other
15 equitable and remedial relief as the court may deem appropriate,
16 including removal of the fiduciary.

17 (b) Any provision in any agreement or instrument that
18 purports to relieve a fiduciary of responsibility or liability
19 for any responsibility, obligation, or duty under this chapter
20 shall be void as against public policy. However, nothing in
21 this section shall preclude:



- 1 (1) A plan from purchasing insurance for its fiduciaries
2 or for itself to cover liability or losses occurring
3 by reason of the act or omission of a fiduciary in the
4 case of a breach of a fiduciary obligation by the
5 fiduciary, if the insurance permits recourse by the
6 insurer against the fiduciary in the case of a breach
7 of fiduciary obligation by the fiduciary;
- 8 (2) A fiduciary from purchasing insurance to cover
9 liability under this chapter from and for the
10 fiduciary's own account; or
- 11 (3) An employee organization from purchasing insurance to
12 cover potential liability of one or more persons who
13 serve in a fiduciary capacity with regard to an
14 employee welfare benefit plan.

15 **§ -8 State and county contributions to the trust; active**
16 **employees.** Upon the establishment of a voluntary employees'
17 beneficiary association trust, the State, through the department
18 of budget and finance, the counties through their respective
19 departments of finance, shall pay to the trust a monthly
20 contribution equal to the amount specified in the applicable
21 public sector collective bargaining agreement from July 1, 2005,
22 and thereafter.



1 § -9 **State and county contributions to the trust;**
2 **retired employees.** (a) Any individual who becomes a retiree on
3 or after the establishment of a voluntary employees' beneficiary
4 association trust, and who, immediately prior to retirement, was
5 a member of the bargaining unit of the sponsoring employee
6 organization, shall be enrolled in that voluntary employees'
7 beneficiary association trust. Upon the establishment of a
8 voluntary employees' beneficiary association trust, the State,
9 through the department of budget and finance, and the counties
10 through their respective departments of finance, shall pay to
11 the trust for each retiree who retires on or after July 1, 2005,
12 a monthly contribution pursuant to the applicable collective
13 bargaining agreement that shall not exceed the base monthly
14 contributions or the specific contribution limits set forth in
15 chapter 87A.

16 (b) Any retiree who, immediately prior to retirement, was
17 a member of an employee organization prior to the establishment
18 of a voluntary employees' beneficiary association trust by the
19 employee organization, and who was previously covered by a
20 collective bargaining agreement, shall be given a one-time
21 option to transfer participation from the Hawaii employer-union
22 health benefits trust fund established under chapter 87A to the



1 organization's voluntary employees' beneficiary association
2 trust once the latter is established[-]; provided that any
3 retiree who, prior to July 1, 2010, declined the option to
4 transfer from participation in the Hawaii employer-union health
5 benefits trust fund to the organization's voluntary employees'
6 beneficiary association trust shall be given a final one-time
7 option to transfer participation. Upon the establishment of the
8 voluntary employees' beneficiary association trust, the State,
9 through the department of budget and finance and the counties,
10 through their respective departments of finance, shall pay to
11 the trust for each retiree who opts to transfer into a voluntary
12 employees' beneficiary association trust, a monthly contribution
13 equal to the contribution paid on behalf of a similarly situated
14 retiree under the Hawaii employer-union health benefits trust
15 fund.

16 (c) Medicare part B reimbursements established pursuant to
17 section 87A-23(2) shall be directly disbursed by the State,
18 through the department of budget and finance, and the counties,
19 through their respective departments of finance, to those
20 retirees and their beneficiaries who qualify and are covered by
21 a voluntary employees' beneficiary association trust to the same
22 extent retirees and their beneficiaries under the Hawaii



1 employer-union health benefits trust fund receive those
2 reimbursements.

3 (d) For the purposes of this chapter, a collective
4 bargaining agreement shall include provisions specifying
5 contributions to a voluntary employees' beneficiary association
6 trust.

7 **§ -10 Termination of the trust.** If an employee
8 organization or a collective bargaining agreement that
9 establishes a voluntary employees' beneficiary association trust
10 terminates the voluntary employees' beneficiary association
11 trust, or ceases to provide health benefits, the participants in
12 the trust shall be allowed to return to the Hawaii employer-
13 union health benefits trust fund upon the date that health
14 benefits cease to be provided. All participants electing to
15 return to the Hawaii employer-union health benefits trust fund
16 shall be given the same rights and benefits as if the
17 participant had first participated in the Hawaii employer-union
18 health benefits trust fund from the inception of that trust fund
19 without loss of benefits or accrued time.

20 **§ -11 Violation of the chapter; enforcement.** (a) A
21 civil action may be brought by a participant, beneficiary, or
22 fiduciary:



- 1 (1) For relief, if a trust fails to provide any
2 information required under this chapter, or if a trust
3 fails to comply with any request for information that
4 the trust is required to furnish to the participant or
5 beneficiary;
- 6 (2) To recover benefits due the participant or beneficiary
7 under the terms of the plan, or to enforce the
8 participant's or beneficiary's rights under the terms
9 of the plan, or to clarify the participant's or
10 beneficiary's rights to future benefits under the
11 terms of the plan;
- 12 (3) For appropriate relief against any breach of fiduciary
13 duty under section -7; or
- 14 (4) To enjoin any act or practice that violates any
15 provision of this chapter or the terms of the plan, or
16 to obtain any other appropriate equitable relief, or
17 to redress [~~such~~] any violations, or to enforce any
18 provisions of this chapter or the terms of the plan.
- 19 (b) A civil action may be brought by the attorney general:
- 20 (1) For relief, if a trust fails to provide any
21 information required by this chapter, or if a trust
22 fails to comply with any request for information that



1 the trust is required to furnish any state or county
2 department;

3 (2) To enjoin any act or practice that violates any
4 provision of this chapter;

5 (3) To redress the violations;

6 (4) To enforce any provision of this chapter; or

7 (5) To suspend contributions from the State and counties
8 made pursuant to a collective bargaining agreement
9 required under section -2(a)(8) made to any trust
10 established under this chapter.

11 (c) The attorney general shall have the power, in order to
12 determine whether any person has violated or is about to violate
13 any provision of this chapter:

14 (1) To conduct an investigation and in connection
15 therewith to require submission of reports, books, and
16 records, and the filing of data in support of any
17 information required to be filed under this chapter;
18 and

19 (2) To enter any place, inspect any books and records, and
20 question any persons as the attorney general may deem
21 necessary to enable the attorney general to determine
22 the facts relative to an investigation.



1 For purposes of any investigation provided for in this
2 chapter, the attorney general may utilize the investigation
3 procedures set forth in section 480-18 and the remedies and
4 penalties of that section are hereby made applicable.

5 (d) The rights and remedies provided in this section are
6 in addition to any rights or remedies that the participants,
7 beneficiaries, fiduciaries, attorney general, or other state or
8 federal agencies may have over the trust, the plans provided by
9 or through the trust, and fiduciaries of the plans.

10 **§ -12 Insurance; immunity of State and counties. (a)**

11 The employee organization or the trust's governing board shall
12 procure:

13 (1) Fiduciary liability insurance and errors and omissions
14 coverage for members of the governing board; and

15 (2) A fidelity bond of a reasonable amount for the
16 chairperson of the governing board and any other
17 person authorized to handle trust moneys.

18 (b) Notwithstanding any law to the contrary, the State and
19 the counties, and their officers, agents, and employees, shall
20 not be liable for any benefits provided by a trust or which it
21 fails to provide, any losses suffered by a trust, and any
22 losses, damages, or penalties arising out of the operations of a



1 trust or the acts or omissions of a trust's governing board or
2 any fiduciary of a trust."

3 2. By amending section 8 to read:

4 "SECTION 8. This Act shall take effect upon its approval,
5 for the purpose of establishing a voluntary employees'
6 beneficiary association trust pilot program in March, 2006 and
7 shall be repealed on July 1, [~~2009~~] 2011; provided that
8 sections 89-2, 89-3, 89-6, and 89-9, Hawaii Revised Statutes,
9 are reenacted in the form in which they read on the day before
10 the effective date of this Act."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on January 1, 2050.



Report Title:

VEBA Trusts; Bargaining Unit 5; Repeal Sunset

Description:

Extends the sunset date to 7/1/2011, for voluntary employees' beneficiary association trusts pilot program established pursuant to Act 245, Session Laws of Hawaii 2005, as amended.
(SB2262 SD1)

