
A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYEES.

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

1 SECTION 1. The purpose of this Act is to address issues
2 relating to employer contributions to the employer-union health
3 benefits trust fund and the voluntary employees' beneficiary
4 association trust. More specifically, this Act:

5 (1) Makes employer contributions to the employer-union
6 health benefit trust fund non-negotiable; and

7 (2) Establishes the percentage of the health benefits plan
8 cost that employers shall contribute to the employer-
9 union health benefits trust fund for active employees.

10 SECTION 2. Section 87A-32, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The State, through the department of budget and
13 finance, and the counties, through their respective departments
14 of finance, shall pay to the fund a monthly contribution equal
15 to ~~[the amount established under chapter 89C or specified in the~~
16 ~~applicable public sector collective bargaining agreements,~~
17 ~~whichever is appropriate,]~~ fifty-five per cent of the cost of
18 the health benefits plan for each of their respective employee-



1 beneficiaries and employee-beneficiaries with dependent-
2 beneficiaries [~~, which shall be used toward the payment of a~~
3 ~~health benefits plan~~]; provided that:

4 [~~(1)~~] ~~The monthly contribution shall be a specified dollar~~
5 ~~amount;~~

6 [~~(2)~~] ~~The monthly contribution shall not exceed the actual~~
7 ~~cost of a health benefits plan;~~

8 [~~(3)~~] (1) If both husband and wife are employee-
9 beneficiaries, the total contribution by the State or
10 the county shall not exceed fifty-five per cent of the
11 monthly contribution for a family plan; and

12 [~~(4)~~] (2) If the State or any of the counties establish
13 cafeteria plans in accordance with Title 26, United
14 States Code section 125, the Internal Revenue Code of
15 1986, as amended, and part II of chapter 78, the
16 monthly contribution for those employee-beneficiaries
17 who participate in a cafeteria plan shall be made
18 through the cafeteria plan, and the payments made by
19 the State or counties shall include their respective
20 contributions to the fund and their employee-
21 beneficiary's share of the cost of the employee-
22 beneficiary's health benefits plan."



1 SECTION 3. Section 87D-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§87D-8[+] State and county contributions to the trust;
4 active employees. Upon the establishment of a voluntary
5 employees' beneficiary association trust, the State, through the
6 department of budget and finance, [+]and[+] the counties through
7 their respective departments of finance, shall pay to the trust
8 a monthly contribution equal to the amount specified in the
9 applicable public sector collective bargaining agreement from
10 July 1, 2005, and thereafter[-]; provided that, from July 1,
11 2009 until June 30, 2010, the monthly contribution shall be the
12 same as the amount applicable on June 30, 2009."

13 SECTION 4. Section 87D-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§87D-9[+] State and county contributions to the trust;
16 retired employees. (a) Any individual who becomes a retiree on
17 or after the establishment of a voluntary employees' beneficiary
18 association trust, and who, immediately prior to retirement, was
19 a member of the bargaining unit of the sponsoring employee
20 organization, shall be enrolled in that voluntary employees'
21 beneficiary association trust. Upon the establishment of a
22 voluntary employees' beneficiary association trust, the State,



1 through the department of budget and finance, and the counties
2 through their respective departments of finance, shall pay to
3 the trust for each retiree who retires on or after July 1, 2005,
4 a monthly contribution pursuant to the applicable collective
5 bargaining agreement that shall not exceed the base monthly
6 contributions or the specific contribution limits set forth in
7 chapter 87A.

8 (b) Any retiree who, immediately prior to retirement, was
9 a member of an employee organization prior to the establishment
10 of a voluntary employees' beneficiary association trust by the
11 employee organization, and who was previously covered by a
12 collective bargaining agreement, shall be given a one-time
13 option to transfer participation from the Hawaii employer-union
14 health benefits trust fund established under chapter 87A to the
15 organization's voluntary employees' beneficiary association
16 trust once the latter is established. Upon the establishment of
17 the voluntary employees' beneficiary association trust, the
18 State, through the department of budget and finance, and the
19 counties, through their respective departments of finance, shall
20 pay to the trust for each retiree who opts to transfer into a
21 voluntary employees' beneficiary association trust, a monthly
22 contribution equal to the contribution paid on behalf of a



1 similarly situated retiree under the Hawaii employer-union
2 health benefits trust fund.

3 (c) Medicare part B reimbursements established pursuant to
4 section 87A-23(2) shall be directly disbursed by the State,
5 through the department of budget and finance, and the counties,
6 through their respective departments of finance, to those
7 retirees and their beneficiaries who qualify and are covered by
8 a voluntary employees' beneficiary association trust to the same
9 extent retirees and their beneficiaries under the Hawaii
10 employer-union health benefits trust fund receive those
11 reimbursements.

12 [~~(d) For the purposes of this chapter, a collective~~
13 ~~bargaining agreement shall include provisions specifying~~
14 ~~contributions to a voluntary employees' beneficiary association~~
15 ~~trust.] "~~

16 SECTION 5. Section 89-2, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending the definition of "collective bargaining"
19 to read:

20 ""Collective bargaining" means the performance of the
21 mutual obligations of the public employer and an exclusive
22 representative to meet at reasonable times, to confer and



1 negotiate in good faith, and to execute a written agreement with
2 respect to wages, hours, [~~amounts of contributions by the State~~
3 ~~and counties to the Hawaii public employees health fund,~~] and
4 other terms and conditions of employment, except that by any
5 such obligation neither party shall be compelled to agree to a
6 proposal, or be required to make a concession. For the purposes
7 of this definition, "wages" includes the number of incremental
8 and longevity steps, the number of pay ranges, and the movement
9 between steps within the pay range and between the pay ranges on
10 a pay schedule under a collective bargaining agreement."

11 2. By amending the definition of "employee organization"
12 to read:

13 "Employee organization" means any organization of any kind
14 in which public employees participate and which exists for the
15 primary purpose of dealing with public employers concerning
16 grievances, labor disputes, wages, hours, [~~amounts of~~
17 ~~contributions by the State and counties to the Hawaii employer-~~
18 ~~union health benefits trust fund or a voluntary employees'~~
19 ~~beneficiary association trust,~~] and other terms and conditions
20 of employment of public employees."

21 SECTION 6. Section 89-3, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§89-3 Rights of employees.** Employees shall have the
2 right of self-organization and the right to form, join, or
3 assist any employee organization for the purpose of bargaining
4 collectively through representatives of their own choosing on
5 questions of wages, hours, and other terms and conditions of
6 employment [~~including retiree health benefit contributions,~~]
7 and to engage in lawful, concerted activities for the purpose of
8 collective bargaining or other mutual aid or protection, free
9 from interference, restraint, or coercion. An employee shall
10 have the right to refrain from any or all of such activities,
11 except for having a payroll deduction equivalent to regular dues
12 remitted to an exclusive representative as provided in section
13 89-4."

14 SECTION 7. Section 89-9, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§89-9 Scope of negotiations; consultation.** (a) The
17 employer and the exclusive representative shall meet at
18 reasonable times, including meetings sufficiently in advance of
19 the February 1 impasse date under section 89-11, and shall
20 negotiate in good faith with respect to wages, hours, [~~the~~
21 ~~amounts of contributions by the State and respective counties to~~
22 ~~the Hawaii employer union health benefits trust fund or a~~



1 ~~voluntary employees' beneficiary association trust to the extent~~
2 ~~allowed in subsection (e),]~~ and other terms and conditions of
3 employment that are subject to collective bargaining and that
4 are to be embodied in a written agreement as specified in
5 section 89-10, but the obligation does not compel either party
6 to agree to a proposal or make a concession[~~], provided that the~~
7 ~~parties may not negotiate with respect to cost items as defined~~
8 ~~by section 89-2 for the biennium 1999 to 2001, and the cost~~
9 ~~items of employees in bargaining units under section 89-6 in~~
10 ~~effect on June 30, 1999, shall remain in effect until July 1,~~
11 ~~2001].~~

12 (b) The employer or the exclusive representative desiring
13 to initiate negotiations shall notify the other party in
14 writing, setting forth the time and place of the meeting desired
15 and the nature of the business to be discussed, sufficiently in
16 advance of the meeting.

17 (c) Except as otherwise provided in this chapter, all
18 matters affecting employee relations, including those that are,
19 or may be, the subject of a rule adopted by the employer or any
20 director, shall be subject to consultation with the exclusive
21 representatives of the employees concerned. The employer shall
22 make every reasonable effort to consult with exclusive



1 representatives and consider their input, along with the input
2 of other affected parties, prior to effecting changes in any
3 major policy affecting employee relations.

4 (d) Excluded from the subjects of negotiations are matters
5 of classification, reclassification, benefits of [~~but not~~] and
6 contributions to the Hawaii employer-union health benefits trust
7 fund or a voluntary employees' beneficiary association trust;
8 recruitment; examination; initial pricing; and retirement
9 benefits except as provided in section 88-8(h). The employer
10 and the exclusive representative shall not agree to any proposal
11 that would be inconsistent with the merit principle or the
12 principle of equal pay for equal work pursuant to section 76-1
13 or that would interfere with the rights and obligations of a
14 public employer to:

- 15 (1) Direct employees;
- 16 (2) Determine qualifications, standards for work, and the
17 nature and contents of examinations;
- 18 (3) Hire, promote, transfer, assign, and retain employees
19 in positions;
- 20 (4) Suspend, demote, discharge, or take other disciplinary
21 action against employees for proper cause;



- 1 (5) Relieve an employee from duties because of lack of
- 2 work or other legitimate reason;
- 3 (6) Maintain efficiency and productivity, including
- 4 maximizing the use of advanced technology, in
- 5 government operations;
- 6 (7) Determine methods, means, and personnel by which the
- 7 employer's operations are to be conducted; and
- 8 (8) Take such actions as may be necessary to carry out the
- 9 missions of the employer in cases of emergencies.

10 This subsection shall not be used to invalidate provisions
11 of collective bargaining agreements in effect on and after June
12 30, 2007, and shall not preclude negotiations over the
13 procedures and criteria on promotions, transfers, assignments,
14 demotions, layoffs, suspensions, terminations, discharges, or
15 other disciplinary actions as a permissive subject of bargaining
16 during collective bargaining negotiations or negotiations over a
17 memorandum of agreement, memorandum of understanding, or other
18 supplemental agreement.

19 Violations of the procedures and criteria so negotiated may
20 be subject to the grievance procedure in the collective
21 bargaining agreement.



1 ~~[(e) Negotiations relating to contributions to the Hawaii~~
2 ~~employer union health benefits trust fund or a voluntary~~
3 ~~employees' beneficiary association trust shall be for the~~
4 ~~purpose of agreeing upon the amounts that the State and counties~~
5 ~~shall contribute under sections 87A-32 through 87A-37, toward~~
6 ~~the payment of the costs for a health benefits plan, as defined~~
7 ~~in section 87A-1 and group life insurance benefits, and the~~
8 ~~parties shall not be bound by the amounts contributed under~~
9 ~~prior agreements; provided that section 89-11 for the resolution~~
10 ~~of disputes by way of arbitration shall not be available to~~
11 ~~resolve impasses or disputes relating to the amounts the State~~
12 ~~and counties shall contribute to the Hawaii employer union~~
13 ~~health benefits trust fund or a voluntary employees' beneficiary~~
14 ~~association trust established under chapter 87D.~~

15 ~~(f)]~~ (e) The repricing of classes within an appropriate
16 bargaining unit may be negotiated as follows:

17 (1) At the request of the exclusive representative and at
18 times allowed under the collective bargaining
19 agreement, the employer shall negotiate the repricing
20 of classes within the bargaining unit. The negotiated
21 repricing actions that constitute cost items shall be
22 subject to the requirements in section 89-10; and



1 (2) If repricing has not been negotiated under paragraph
2 (1), the employer of each jurisdiction shall ensure
3 establishment of procedures to periodically review, at
4 least once in five years, unless otherwise agreed to
5 by the parties, the repricing of classes within the
6 bargaining unit. The repricing of classes based on
7 the results of the periodic review shall be at the
8 discretion of the employer. Any appropriations
9 required to implement the repricing actions that are
10 made at the employer's discretion shall not be
11 construed as cost items."

12 SECTION 8. Section 89-11, Hawaii Revised Statutes, is
13 amended by amending subsection (g) to read as follows:

14 "(g) The decision of the arbitration panel shall be final
15 and binding upon the parties on all provisions submitted to the
16 arbitration panel. ~~[If the parties have reached agreement with
17 respect to the amounts of contributions by the State and
18 counties to the Hawaii employer union health benefits trust fund
19 by the tenth working day after the arbitration panel issues its
20 decision, the final and binding agreement of the parties on all
21 provisions shall consist of the panel's decision and the amounts
22 of contributions agreed to by the parties. If the parties have~~



1 ~~not reached agreement with respect to the amounts of~~
2 ~~contributions by the State and counties to the Hawaii employer-~~
3 ~~union health benefits trust fund by the close of business on the~~
4 ~~tenth working day after the arbitration panel issues its~~
5 ~~decision, the parties shall have five days to submit their~~
6 ~~respective recommendations for such contributions to the~~
7 ~~legislature, if it is in session, and if the legislature is not~~
8 ~~in session, the parties shall submit their respective~~
9 ~~recommendations for such contributions to the legislature during~~
10 ~~the next session of the legislature. In such event, the final~~
11 ~~and binding agreement of the parties on all provisions shall~~
12 ~~consist of the panel's decision and the amounts of contributions~~
13 ~~established by the legislature by enactment, after the~~
14 ~~legislature has considered the recommendations for such~~
15 ~~contributions by the parties. It is strictly understood that no~~
16 ~~member of a bargaining unit subject to this subsection shall be~~
17 ~~allowed to participate in a strike on the issue of the amounts~~
18 ~~of contributions by the State and counties to the Hawaii~~
19 ~~employer union health benefits trust fund.] The parties shall~~
20 ~~take whatever action is necessary to carry out and effectuate~~
21 ~~the final and binding agreement. The parties may, at any time~~
22 ~~and by mutual agreement, amend or modify the panel's decision.~~



1 Agreements reached pursuant to the decision of an
2 arbitration panel [~~and the amounts of contributions by the State~~
3 ~~and counties to the Hawaii employer union health benefits trust~~
4 ~~fund, as provided herein,~~] shall not be subject to ratification
5 by the employees concerned. All items requiring any moneys for
6 implementation shall be subject to appropriations by the
7 appropriate legislative bodies and the employer shall submit all
8 such items within ten days after the date on which the agreement
9 is entered into as provided herein, to the appropriate
10 legislative bodies."

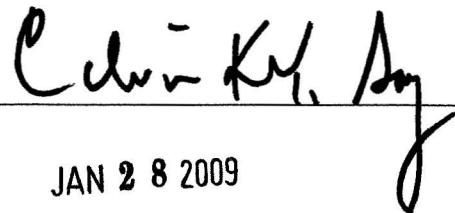
11 SECTION 9. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun, before its effective date.

14 SECTION 10. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 11. This Act shall take effect on July 1, 2009,
17 and shall be repealed on June 30, 2015.

18

INTRODUCED BY:


JAN 28 2009



Report Title:

Employer-Union Health Benefit Trust Fund; Voluntary Employees' Beneficiary Association Trust; Employer Contributions

Description:

Makes employer contributions to the employer-union health benefits trust fund non-negotiable under collective bargaining. Establishes employer contributions for active public employees at 55 per cent of monthly cost of the health benefits plan.

