
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. More specifically, this Act:
- 4 (1) Makes employer contributions to the employer-union
5 health benefit trust fund non-negotiable;
- 6 (2) Establishes the percentage of the health benefits plan
7 cost that employers shall contribute to the employer-
8 union health benefits trust fund for active employees;
9 and
- 10 (3) Limits the trust fund to offering a medical benefits
11 plan that provides not more than the minimum health
12 care benefits required under the Hawaii prepaid health
13 care act. The trust fund also is required to offer a
14 prescription drug supplemental plan, dental plan, and
15 vision plan.
- 16 This Act takes effect on July 1, 2011, and is repealed on
17 June 30, 2015.



1 This Act expressly does not affect contracts that were
2 entered into before the effective date. The legislature intends
3 that this provision apply to a collective bargaining contract,
4 the cost items of which are approved before the effective date.

5 SECTION 2. 87A-1, Hawaii Revised Statutes, is amended by
6 adding two new definitions to be appropriately inserted and to
7 read as follows:

8 "Active employee" means an "employee", as defined in this
9 section, but excluding a retired member of the employees'
10 retirement system, county pension system, or police,
11 firefighters, or bandsmen pension system of the State or county.

12 "Medical benefits plan" means a group insurance contract or
13 service agreement offered by a carrier providing medical,
14 hospital, surgical, or other health care benefits or a similar
15 schedule of benefits that are provided through the fund on a
16 self-insured basis. The term does not include a health benefits
17 plan that provides only prescription drug, vision, or dental
18 benefits."

19 SECTION 3. Section 87A-16, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§87A-16[+] Health benefits plan; carriers. (a) The
22 board shall establish the health benefits plan or plans, which



1 shall conform with subsection (c), but be exempt from the
2 minimum group requirements of chapter 431.

3 (b) The board may contract for health benefits plans or
4 provide health benefits through a noninsured schedule of
5 benefits.

6 (c) From July 1, 2011, until June 30, 2015, the board
7 shall offer to active employees and their dependent-
8 beneficiaries only the following health benefits plans:

9 (1) A medical benefits plan providing not more than the
10 minimum health care benefits required under section
11 393-7;

12 (2) A prescription drug plan supplementing the
13 prescription drug coverage under the medical benefits
14 plan of paragraph (1);

15 (3) A dental plan; and

16 (4) A vision plan.

17 This subsection shall not apply to retired employees or
18 their dependent-beneficiaries. The health benefits plan of
19 retired employees and their dependent-beneficiaries shall be
20 subject to other applicable provisions of this chapter."

21 SECTION 4. Section 87A-32, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) The State, through the department of budget and
2 finance, and the counties, through their respective departments
3 of finance, shall pay to the fund a monthly contribution equal
4 to ~~[the amount established under chapter 89C or specified in the~~
5 ~~applicable public sector collective bargaining agreements,~~
6 ~~whichever is appropriate,]~~ fifty per cent of the cost of the
7 health benefits plan for each of their respective employee-
8 beneficiaries and employee-beneficiaries with dependent-
9 beneficiaries ~~[, which shall be used toward the payment of costs~~
10 ~~of a health benefits plan]~~; provided that:

11 ~~[(1) The monthly contribution shall be a specified dollar~~
12 ~~amount,~~

13 ~~(2) The monthly contribution shall not exceed the actual~~
14 ~~cost of a health benefits plan,~~

15 ~~(3)]~~ (1) If both husband and wife are employee-
16 beneficiaries, the total contribution by the State or
17 the county shall not exceed fifty per cent of the
18 monthly contribution for a family plan; and

19 ~~[(4)]~~ (2) If the State or any of the counties establish
20 cafeteria plans in accordance with Title 26, United
21 States Code section 125, the Internal Revenue Code of
22 1986, as amended, and part II of chapter 78, the



1 monthly contribution for those employee-beneficiaries
2 who participate in a cafeteria plan shall be made
3 through the cafeteria plan, and the payments made by
4 the State or counties shall include their respective
5 contributions to the fund and their employee-
6 beneficiary's share of the cost of the employee-
7 beneficiary's health benefits plan."

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

10 1. By amending the definition of "collective bargaining"
11 to read:

12 ""Collective bargaining" means the performance of the
13 mutual obligations of the public employer and an exclusive
14 representative to meet at reasonable times, to confer and
15 negotiate in good faith, and to execute a written agreement with
16 respect to wages, hours, [~~amounts of contributions by the State~~
17 ~~and counties to the Hawaii public employees health fund,~~] and
18 other terms and conditions of employment, except that by any
19 such obligation neither party shall be compelled to agree to a
20 proposal, or be required to make a concession. For the purposes
21 of this definition, "wages" includes the number of incremental
22 and longevity steps, the number of pay ranges, and the movement



1 between steps within the pay range and between the pay ranges on
2 a pay schedule under a collective bargaining agreement."

3 2. By amending the definition of "employee organization"
4 to read:

5 "Employee organization" means any organization of any kind
6 in which public employees participate and which exists for the
7 primary purpose of dealing with public employers concerning
8 grievances, labor disputes, wages, hours, [~~amounts of~~
9 ~~contributions by the State and counties to the Hawaii public~~
10 ~~employees health fund,~~] and other terms and conditions of
11 employment of public employees."

12 SECTION 6. Section 89-9, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§89-9 Scope of negotiations; consultation. (a) The
15 employer and the exclusive representative shall meet at
16 reasonable times, including meetings sufficiently in advance of
17 the February 1 impasse date under section 89-11, and shall
18 negotiate in good faith with respect to wages, hours, [~~the~~
19 ~~amounts of contributions by the State and respective counties to~~
20 ~~the Hawaii employer union health benefits trust fund to the~~
21 ~~extent allowed in subsection (e),~~] and other terms and
22 conditions of employment which are subject to collective



1 bargaining and which are to be embodied in a written agreement
2 as specified in section 89-10, but [such] the obligation does
3 not compel either party to agree to a proposal or make a
4 concession[~~;~~ ~~provided that the parties may not negotiate with~~
5 ~~respect to cost items as defined by section 89-2 for the~~
6 ~~biennium 1999 to 2001, and the cost items of employees in~~
7 ~~bargaining units under section 89-6 in effect on June 30, 1999,~~
8 ~~shall remain in effect until July 1, 2001]~~.

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

14 (c) Except as otherwise provided in this chapter, all
15 matters affecting employee relations, including those that are,
16 or may be, the subject of a rule adopted by the employer or any
17 director, shall be subject to consultation with the exclusive
18 representatives of the employees concerned. The employer shall
19 make every reasonable effort to consult with exclusive
20 representatives and consider their input, along with the input
21 of other affected parties, prior to effecting changes in any
22 major policy affecting employee relations.



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

- 11 (1) Direct employees;
- 12 (2) Determine qualifications, standards for work, and the
13 nature and contents of examinations;
- 14 (3) Hire, promote, transfer, assign, and retain employees
15 in positions;
- 16 (4) Suspend, demote, discharge, or take other disciplinary
17 action against employees for proper cause;
- 18 (5) Relieve an employee from duties because of lack of
19 work or other legitimate reason;
- 20 (6) Maintain efficiency and productivity, including
21 maximizing the use of advanced technology, in
22 government operations;



1 (7) Determine methods, means, and personnel by which the
2 employer's operations are to be conducted; and

3 (8) Take such actions as may be necessary to carry out the
4 missions of the employer in cases of emergencies.

5 This subsection shall not be used to invalidate provisions
6 of collective bargaining agreements in effect on and after June
7 30, 2007, and shall not preclude negotiations over the
8 procedures and criteria on promotions, transfers, assignments,
9 demotions, layoffs, suspensions, terminations, discharges, or
10 other disciplinary actions as a permissive subject of bargaining
11 during collective bargaining negotiations or negotiations over a
12 memorandum of agreement, memorandum of understanding, or other
13 supplemental agreement.

14 Violations of the procedures and criteria so negotiated may
15 be subject to the grievance procedure in the collective
16 bargaining agreement.

17 ~~[(e) Negotiations relating to contributions to the Hawaii~~
18 ~~employer union health benefits trust fund shall be for the~~
19 ~~purpose of agreeing upon the amounts which the State and~~
20 ~~counties shall contribute under section 87-4, toward the payment~~
21 ~~of the costs for a health benefits plan, as defined in section~~
22 ~~87-1(8), and group life insurance benefits, and the parties~~



1 ~~shall not be bound by the amounts contributed under prior~~
2 ~~agreements; provided that section 89-11 for the resolution of~~
3 ~~disputes by way of arbitration shall not be available to resolve~~
4 ~~impasses or disputes relating to the amounts the State and~~
5 ~~counties shall contribute to the Hawaii employer union health~~
6 ~~benefits trust fund.~~

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

9 (1) At the request of the exclusive representative and at
10 times allowed under the collective bargaining
11 agreement, the employer shall negotiate the repricing
12 of classes within the bargaining unit. The negotiated
13 repricing actions that constitute cost items shall be
14 subject to the requirements in section 89-10; and

15 (2) If repricing has not been negotiated under paragraph
16 (1), the employer of each jurisdiction shall ensure
17 establishment of procedures to periodically review, at
18 least once in five years, unless otherwise agreed to
19 by the parties, the repricing of classes within the
20 bargaining unit. The repricing of classes based on
21 the results of the periodic review shall be at the
22 discretion of the employer. Any appropriations



1 required to implement the repricing actions that are
2 made at the employer's discretion shall not be
3 construed as cost items."

4 SECTION 7. Section 89-11, Hawaii Revised Statutes, is
5 amended by amending subsection (g) to read as follows:

6 "(g) The decision of the arbitration panel shall be final
7 and binding upon the parties on all provisions submitted to the
8 arbitration panel. ~~[If the parties have reached agreement with
9 respect to the amounts of contributions by the State and
10 counties to the Hawaii employer union health benefits trust fund
11 by the tenth working day after the arbitration panel issues its
12 decision, the final and binding agreement of the parties on all
13 provisions shall consist of the panel's decision and the amounts
14 of contributions agreed to by the parties. If the parties have
15 not reached agreement with respect to the amounts of
16 contributions by the State and counties to the Hawaii employer
17 union health benefits trust fund by the close of business on the
18 tenth working day after the arbitration panel issues its
19 decision, the parties shall have five days to submit their
20 respective recommendations for such contributions to the
21 legislature, if it is in session, and if the legislature is not
22 in session, the parties shall submit their respective~~



1 ~~recommendations for such contributions to the legislature during~~
2 ~~the next session of the legislature. In such event, the final~~
3 ~~and binding agreement of the parties on all provisions shall~~
4 ~~consist of the panel's decision and the amounts of contributions~~
5 ~~established by the legislature by enactment, after the~~
6 ~~legislature has considered the recommendations for such~~
7 ~~contributions by the parties. It is strictly understood that no~~
8 ~~member of a bargaining unit subject to this subsection shall be~~
9 ~~allowed to participate in a strike on the issue of the amounts~~
10 ~~of contributions by the State and counties to the Hawaii~~
11 ~~employer union health benefits trust fund.] The parties shall~~
12 take whatever action is necessary to carry out and effectuate
13 the final and binding agreement. The parties may, at any time
14 and by mutual agreement, amend or modify the panel's decision.

15 Agreements reached pursuant to the decision of an
16 arbitration panel [~~and the amounts of contributions by the State~~
17 ~~and counties to the Hawaii employer union health benefits trust~~
18 ~~fund, as provided herein,]~~ shall not be subject to ratification
19 by the employees concerned. All items requiring any moneys for
20 implementation shall be subject to appropriations by the
21 appropriate legislative bodies and the employer shall submit all
22 such items within ten days after the date on which the agreement



H.B. NO. 815

1 is entered into as provided herein, to the appropriate
2 legislative bodies."

3 SECTION 8. This Act does not affect collective bargaining
4 contracts, the cost items of which were approved before its
5 effective date.

6 SECTION 9. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on July 1, 2011,
9 and shall be repealed on June 30, 2015; provided that, on July
10 1, 2015, sections 87A-1, 87A-16, 87A-32, 89-2, 89-9, and 89-11,
11 Hawaii Revised Statutes, shall be reenacted in the form in which
12 they read on the day before the effective date of this Act.

13

INTRODUCED BY: Calvin K. Y. Iy

JAN 21 2011



Report Title:

Employer-Union Health Benefit Trust Fund; 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 50% of monthly cost of the health benefits plan. Limits the trust fund to offering to active employees a medical benefits plan that provides not more than the minimum benefits required under the Hawaii prepaid health care act. Requires the trust fund to offer separate prescription drug, dental, and vision plans. Takes effect on 7/1/2011, and is repealed on 6/30/2015, but does not affect collective bargaining contracts, the cost items of which were approved before the effective date.

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

