
A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1 SECTION 1. Section 87A-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of "health benefits plan"
3 and "long-term benefits plan" to read as follows:

4 "Health benefits plan" means:

- 5 (1) A group insurance contract or service agreement that
6 may include medical, hospital, surgical, prescribed
7 drugs, vision, and dental services, in which a carrier
8 agrees to provide, pay for, arrange for, or reimburse
9 the cost of the services as determined by [~~the board,~~]
10 collective bargaining; or
11 (2) A similar schedule of benefits established by [~~the~~
12 ~~board~~] collective bargaining and provided through the
13 fund on a self-insured basis.

14 "Long-term care benefits plan" means:

- 15 (1) A group insurance contract or service agreement in
16 which a carrier agrees to provide, pay for, arrange
17 for, or reimburse the cost of long-term care benefits



1 as determined by [~~the board,~~] collective bargaining;

2 or

3 (2) A similar schedule of benefits established by [~~the~~
4 ~~board~~] collective bargaining and provided through the
5 fund on a self-insured basis."

6 SECTION 2. Section 87A-16, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~+~~§87A-16~~+~~ **Health benefits plan; carriers.** (a) The
9 [~~board shall establish the~~] health benefits plan or plans [~~,~~
10 ~~which~~] shall be determined by collective bargaining and shall be
11 exempt from the minimum group requirements of chapter 431.

12 (b) The board may contract for health benefits plans or
13 provide health benefits through a noninsured schedule of
14 benefits."

15 SECTION 3. Section 87A-17, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~+~~§87A-17~~+~~ **Group life insurance benefits or group life**
18 **insurance program.** The board may provide benefits, as
19 determined by collective bargaining, under a group life
20 insurance benefits program or group life insurance program to
21 employees."



1 SECTION 4. Section 87A-18, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) [~~The board may establish a~~] A long-term care benefits
4 plan or plans, as determined by collective bargaining, shall be
5 established for employee-beneficiaries; the spouses, parents,
6 grandparents, in-law parents, and in-law grandparents of
7 employee-beneficiaries; and qualified-beneficiaries. The plan
8 or plans shall be at no cost to employers and shall comply with
9 article 10H of chapter 431."

10 SECTION 5. Section 87A-19, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]~~**\$87A-19**~~[+]~~ **Plans for part-time, temporary, and**
13 **seasonal or casual employees.** (a) The board may offer medical,
14 hospital, or surgical benefits plans, as determined by
15 collective bargaining, to part-time, temporary, and seasonal or
16 casual employees at no cost to the employers. The board may
17 determine eligibility for part-time, temporary, and seasonal or
18 casual employees by rules exempt from chapter 91 as provided in
19 section 87A-26.

20 (b) The board shall establish the medical, hospital, or
21 surgical benefits plan or plans, [~~which~~] as determined by
22 collective bargaining. The medical, hospital, or surgical



1 benefits plan or plans shall be exempt from the minimum group
2 requirements of article 10A of chapter 431. The medical,
3 hospital, or surgical benefits plan or plans shall provide, pay
4 for, arrange for, or reimburse the cost of medical, hospital, or
5 surgical services, and may include prescribed hospital in-
6 patient and out-patient service and medical benefits.

7 (c) The board may contract for the medical, hospital, or
8 surgical benefits plan or plans~~[-]~~, as determined by collective
9 bargaining. Each part-time, temporary, and seasonal or casual
10 employee enrolled for medical, hospital, or surgical benefits
11 shall pay monthly contributions directly to the board's
12 designated carriers. The monthly contributions may include the
13 carrier's administrative costs."

14 SECTION 6. Section 87A-23, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§87A-23 Health benefits plan supplemental to medicare.**
17 [~~The board~~] There shall [~~establish~~] be a health benefits plan,
18 as determined by collective bargaining, which takes into account
19 benefits available to an employee-beneficiary and spouse under
20 medicare, subject to the following conditions:

21 (1) There shall be no duplication of benefits payable
22 under medicare. The plan under this section, which



1 shall be secondary to medicare, when combined with
2 medicare and any other plan to which the health
3 benefits plan is subordinate under the National
4 Association of Insurance Commissioners' coordination
5 of benefit rules, shall provide benefits that
6 approximate those provided to a similarly situated
7 beneficiary not eligible for medicare;

- 8 (2) The State, through the department of budget and
9 finance, and the counties, through their respective
10 departments of finance, shall pay to the fund a
11 contribution equal to an amount not less than the
12 medicare part B premium, for each of the following who
13 are enrolled in the medicare part B medical insurance
14 plan: (A) an employee-beneficiary who is a retired
15 employee, (B) an employee-beneficiary's spouse while
16 the employee-beneficiary is living, and (C) an
17 employee-beneficiary's spouse, after the death of the
18 employee-beneficiary, if the spouse qualifies as an
19 employee-beneficiary. For purposes of this section, a
20 "retired employee" means retired members of the
21 employees' retirement system; county pension system;
22 or a police, firefighters, or bandsmen pension system



1 of the State or a county as set forth in chapter 88.
2 If the amount reimbursed by the fund under this
3 section is less than the actual cost of the medicare
4 part B medical insurance plan due to an increase in
5 the medicare part B medical insurance plan rate, the
6 fund shall reimburse each employee-beneficiary and
7 employee-beneficiary's spouse for the cost increase
8 within thirty days of the rate change. Each employee-
9 beneficiary and employee-beneficiary's spouse who
10 becomes entitled to reimbursement from the fund for
11 medicare part B premiums after July 1, 2006, shall
12 designate a financial institution account into which
13 the fund shall be authorized to deposit
14 reimbursements. This method of payment may be waived
15 by the fund if another method is determined to be more
16 appropriate;

17 (3) The benefits available under this plan, when combined
18 with benefits available under medicare or any other
19 coverage or plan to which this plan is subordinate
20 under the National Association of Insurance
21 Commissioners' coordination of benefit rules, shall
22 approximate the benefits that would be provided to a



1 similarly situated employee-beneficiary not eligible
2 for medicare;

3 (4) All employee-beneficiaries or dependent-beneficiaries
4 who are eligible to enroll in the medicare part B
5 medical insurance plan shall enroll in that plan as a
6 condition of receiving contributions and participating
7 in benefits plans under this chapter. This paragraph
8 shall apply to retired employees, their spouses, and
9 the surviving spouses of deceased retirees and
10 employees killed in the performance of duty; and

11 (5) The board shall determine which of the employee-
12 beneficiaries and dependent-beneficiaries, who are not
13 enrolled in the medicare part B medical insurance
14 plan, may participate in the plans offered by the
15 fund."

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

18 "**§87A-24 Other powers.** In addition to the power to
19 administer the fund, the board may:

20 (1) Collect, receive, deposit, and withdraw money on
21 behalf of the fund;



- 1 (2) Invest moneys in the same manner specified in section
2 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6),
3 and (7);
- 4 (3) Hold, purchase, sell, assign, transfer, or dispose of
5 any securities or other investments of the fund, as
6 well as the proceeds of those investments and any
7 money belonging to the fund;
- 8 (4) Appoint, and at pleasure dismiss, an administrator and
9 other fund staff. The administrator and staff shall
10 be exempt from chapter 76 and shall serve under and at
11 the pleasure of the board;
- 12 (5) Make payments of periodic charges and pay for
13 reasonable expenses incurred in carrying out the
14 purposes of the fund;
- 15 (6) Contract for the performance of financial audits of
16 the fund and claims audits of its insurance carriers;
- 17 (7) Retain auditors, actuaries, investment firms and
18 managers, benefit plan consultants, or other
19 professional advisors to carry out the purposes of
20 this chapter;
- 21 (8) [~~Establish~~] Administer health benefits plan and long-
22 term care benefits plan rates that include



1 administrative and other expenses necessary to
2 effectuate the purposes of the fund; and
3 (9) Require any department, agency, or employee of the
4 State or counties to furnish information to the board
5 to carry out the purposes of this chapter."

6 SECTION 8. Section 87A-33, Hawaii Revised Statutes, is
7 amended by amending subsection (e) to read as follows:

8 "(e) [~~If the board adopts a~~] A rate structure determined
9 by collective bargaining that provides for other than self and
10 family rates for the health benefit plans, the base monthly
11 contribution for the rate structure [~~adopted by the board~~] shall
12 be adjusted to provide the equivalent underwriting cost as the
13 base monthly contribution that is provided for in this section."

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

16 1. By amending subsection (a) to read:

17 "(a) The employer and the exclusive representative shall
18 meet at reasonable times, including meetings sufficiently in
19 advance of the February 1 impasse date under section 89-11, and
20 shall negotiate in good faith with respect to wages, hours, the
21 benefits of and the amounts of contributions by the State and
22 respective counties to the Hawaii employer-union health benefits



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

12 2. By amending subsections (d) and (e) to read:

13 "(d) Excluded from the subjects of negotiations are
14 matters of classification, reclassification, [~~benefits of but~~
15 ~~not contributions to the Hawaii employer union health benefits~~
16 ~~trust fund,~~] recruitment, examination, initial pricing, and
17 retirement benefits except as provided in section 88-8(h). The
18 employer and the exclusive representative shall not agree to any
19 proposal [~~which~~] that would be inconsistent with the merit
20 principle or the principle of equal pay for equal work pursuant
21 to section 76-1 or [~~which~~] that would interfere with the rights
22 and obligations of a public employer to:



- 1 (1) Direct employees;
- 2 (2) Determine qualifications, standards for work, and the
3 nature and contents of examinations;
- 4 (3) Hire, promote, transfer, assign, and retain employees
5 in positions;
- 6 (4) Suspend, demote, discharge, or take other disciplinary
7 action against employees for proper cause;
- 8 (5) Relieve an employee from duties because of lack of
9 work or other legitimate reason;
- 10 (6) Maintain efficiency and productivity, including
11 maximizing the use of advanced technology, in
12 government operations;
- 13 (7) Determine methods, means, and personnel by which the
14 employer's operations are to be conducted; and
- 15 (8) Take [~~such~~] actions as may be necessary to carry out
16 the missions of the employer in cases of emergencies.

17 This subsection shall not be used to invalidate provisions
18 of collective bargaining agreements in effect on and after
19 June 30, 2007, and shall not preclude negotiations over the
20 procedures and criteria on promotions, transfers, assignments,
21 demotions, layoffs, suspensions, terminations, discharges, or
22 other disciplinary actions as a permissive subject of bargaining



1 during collective bargaining negotiations or negotiations over a
2 memorandum of agreement, memorandum of understanding, or other
3 supplemental agreement.

4 Violations of the procedures and criteria so negotiated may
5 be subject to the grievance procedure in the collective
6 bargaining agreement.

7 (e) Negotiations relating to the benefits of and
8 contributions to the Hawaii employer-union health benefits trust
9 fund shall be for the purpose of agreeing upon the benefits
10 under the health benefits plan, as defined in section 87A-1, and
11 group life insurance benefits plan, pursuant to section 87A-37,
12 and amounts [which] that the State and counties shall contribute
13 under [~~section 87-4,~~] sections 87A-32, 87A-33, 87A-33.5, 87A-34,
14 87A-35, and 87A-36 toward the payment of the costs for a health
15 benefits plan, as defined in section [~~87-1(8),~~] 87A-1, and under
16 section 87A-37 toward the payment of the costs for group life
17 insurance benefits[; and]; provided that the parties shall not
18 be bound by the benefits and amounts contributed under prior
19 agreements[; ~~provided that section 89-11 for the resolution of~~
20 ~~disputes by way of arbitration shall not be available to resolve~~
21 ~~impasses or disputes relating to the amounts the State and~~



1 ~~counties shall contribute to the Hawaii employer union health~~
2 ~~benefits trust fund]."~~

3 SECTION 10. Section 89-11, Hawaii Revised Statutes, is
4 amended by amending subsection (g) to read as follows:

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



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



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

3 SECTION 11. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 12. This Act shall take effect on July 1, 2050.



Report Title:

Collective Bargaining; Public Employees

Description:

Specifies that the benefits of the Hawaii Employer-Union Health Benefits Trust Fund are subject to negotiation. Clarifies that a decision of an arbitration panel shall be final. Makes conforming amendments to Chapter 87A, HRS, and Chapter 89, HRS. Effective July 1, 2050. (SB1078 HD1)

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

