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## 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:**

1           SECTION 1. The purpose of this Act is to change the manner  
2 in which health care and other benefits are provided to public  
3 employees who are subject to collective bargaining, by  
4 establishing health benefits trust funds for each bargaining  
5 unit. It is the legislature's intent that public officials,  
6 employees excluded from collective bargaining, and retirees  
7 continue to be covered by the Hawaii employer-union health  
8 benefits trust fund, but that the fund be renamed the Hawaii  
9 public employee health benefits trust fund.

10           SECTION 2. Chapter 87A, Hawaii Revised Statutes, is  
11 amended by adding four new parts to be appropriately designated  
12 and to read as follows:

13           "PART     .    **BARGAINING UNIT HEALTH BENEFITS TRUST FUNDS**

14           **§87A-A Definitions.** For the purposes of this part:

15           "Fund" means a bargaining unit health benefits trust fund.



1           §87A-B Bargaining unit health benefits trust funds;  
2 establishment. (a) There is established outside the state  
3 treasury, trust funds to be known as follows:

4           (1) The "bargaining unit (1) health benefits trust fund",  
5                 for employee-beneficiaries and dependent-beneficiaries  
6                 of bargaining unit (1);

7           (2) The "bargaining unit (2) health benefits trust fund",  
8                 for employee-beneficiaries and dependent-beneficiaries  
9                 of bargaining unit (2);

10          (3) The "bargaining unit (3) health benefits trust fund",  
11                 for employee-beneficiaries and dependent-beneficiaries  
12                 of bargaining unit (3);

13          (4) The "bargaining unit (4) health benefits trust fund",  
14                 for employee-beneficiaries and dependent-beneficiaries  
15                 of bargaining unit (4);

16          (5) The "bargaining unit (5) health benefits trust fund",  
17                 for employee-beneficiaries and dependent-beneficiaries  
18                 of bargaining unit (5);

19          (6) The "bargaining unit (6) health benefits trust fund",  
20                 for employee-beneficiaries and dependent-beneficiaries  
21                 of bargaining unit (6);



- 1           (7) The "bargaining unit (7) health benefits trust fund",  
2           for employee-beneficiaries and dependent-beneficiaries  
3           of bargaining unit (7);
- 4           (8) The "bargaining unit (8) health benefits trust fund",  
5           for employee-beneficiaries and dependent-beneficiaries  
6           of bargaining unit (8);
- 7           (9) The "bargaining unit (9) health benefits trust fund",  
8           for employee-beneficiaries and dependent-beneficiaries  
9           of bargaining unit (9);
- 10          (10) The "bargaining unit (10) health benefits trust fund",  
11          for employee-beneficiaries and dependent-beneficiaries  
12          of bargaining unit (10);
- 13          (11) The "bargaining unit (11) health benefits trust fund",  
14          for employee-beneficiaries and dependent-beneficiaries  
15          of bargaining unit (11);
- 16          (12) The "bargaining unit (12) health benefits trust fund",  
17          for employee-beneficiaries and dependent-beneficiaries  
18          of bargaining unit (12); and
- 19          (13) The "bargaining unit (13) health benefits trust fund",  
20          for employee-beneficiaries and dependent-beneficiaries  
21          of bargaining unit (13).



1           (b) Each fund shall consist of contributions, interest,  
2 income, dividends, refunds, rate credits, and other returns. It  
3 is hereby declared that any and all sums contributed or paid  
4 from any source to the funds created by this part, and all  
5 assets of the funds including any and all interest and earnings  
6 on the same, are and shall be held in trust by the respective  
7 board of trustees of each bargaining unit health benefits trust  
8 fund for the exclusive use and benefit of the employee-  
9 beneficiaries and dependent-beneficiaries of the respective  
10 fund, and shall not be subject to appropriation for any other  
11 purpose whatsoever. Each fund shall be under the control of the  
12 respective board and placed under the department of budget and  
13 finance for administrative purposes.

14           (c) Two or more funds may work jointly to accomplish the  
15 purpose of the funds, as set forth in section 87A-C.

16           **§87A-C Bargaining unit health benefits trust funds;**  
17 **purpose.** (a) Each fund shall be used to provide the fund's  
18 employee-beneficiaries and dependent-beneficiaries with health  
19 and other benefit plans, and to pay administrative and other  
20 expenses of the fund. All assets of each fund are and shall be  
21 dedicated to providing health and other benefit plans to the  
22 employee-beneficiaries and dependent-beneficiaries in accordance



1 with the terms of those plans and to pay administrative and  
2 other expenses of the fund, and shall be used for no other  
3 purposes except those set forth in this section.

4 (b) Each fund, including any of the fund's earnings on  
5 investments, and rate credits or reimbursements from any carrier  
6 or self-insured plan and any earning or interest derived  
7 therefrom, may be used to stabilize health and other benefit  
8 plan rates.

9 (c) Each fund may be used to provide group life insurance  
10 benefits to its respective employees.

11 (d) Each fund may be used to provide long-term care  
12 benefits to its respective employees.

13 (e) At the discretion of each fund's respective board,  
14 some or all of each fund may be used as a reserve against or to  
15 pay the fund's future costs of providing health and other  
16 benefits plans.

17 **§87A-D Employer contributions to bargaining unit health**  
18 **benefits trust funds irrevocable.** Notwithstanding any law to  
19 the contrary, the contributions that the State and counties make  
20 to the bargaining unit health benefits trust funds shall be  
21 irrevocable; provided that this shall not preclude the funds  
22 from returning contributions or payments made by the State or



1 any county under a mistake of fact within one year after the  
2 payment of contributions or payments.

3       **§87A-E State and county contributions to the bargaining**  
4 **unit health benefits trust funds; active employees.** The State,  
5 through the department of budget and finance, and the counties,  
6 through their respective departments of finance, shall pay to  
7 the funds contributions equal to the amount and on the dates  
8 specified in the applicable public sector collective bargaining  
9 agreements, which shall be used toward the payment of costs of  
10 health and other benefit plans; provided that the contributions  
11 shall be a specified dollar amount.

12       **§87A-F State and county contributions to bargaining unit**  
13 **health benefits trust funds not considered wages or salary.**  
14 Contributions made by the State or the counties under this part  
15 shall not be considered wages or salary of an employee-  
16 beneficiary. No employee-beneficiary shall have any vested  
17 right in or be entitled to receive any part of any contribution  
18 made to the fund.

19       **§87A-G Reimbursement for state contributions to bargaining**  
20 **unit health benefits trust funds.** (a) All state agencies  
21 having control of funds other than the general fund shall  
22 reimburse the State for contributions made by the State pursuant



1 to section 87A-E on account of agency employees whose  
2 compensation is paid in whole or part from funds other than the  
3 general fund.

4 (b) All state and county agencies receiving federal funds,  
5 which may be expended for the purpose of replacing the  
6 contributions payable by the State to the fund, shall set aside  
7 a portion of the federal funds sufficient to reimburse the State  
8 for contributions made by the State pursuant to section 87A-E on  
9 account of the employees in the agencies whose compensation is  
10 paid in whole or part from federal funds.

11 **§87A-H Employee-beneficiary contributions to bargaining**  
12 **unit health benefits trust funds; health benefits plans.** (a)  
13 If required by the applicable collective bargaining agreement,  
14 each employee-beneficiary shall make a contribution to the fund  
15 to cover the difference between the amount charged for the  
16 health benefits plans elected by the employee-beneficiary and  
17 the amount covered by the fund.

18 (b) If allowed by law and permitted by the applicable  
19 collective bargaining agreement, the employee-beneficiary may  
20 allow the employee-beneficiary's contribution to be withheld and  
21 transmitted to the fund by the comptroller or finance officer  
22 who disburses the employee-beneficiary's compensation. The



1 contribution shall be withheld and transmitted to the fund at  
2 the times specified in the collective bargaining agreement.

3       **§87A-I Employee-beneficiary or qualified-beneficiary**  
4 **contributions; long-term care benefits plan.** During the period  
5 the long-term care benefits plan is in effect, the employee-  
6 beneficiary, if allowed by law and permitted by the collective  
7 bargaining agreement, may authorize the employee-beneficiary's  
8 contribution to be withheld and transmitted to the respective  
9 fund by the comptroller or finance officer who disburses the  
10 employee-beneficiary's compensation. The contribution shall be  
11 withheld and transmitted to the fund at the times specified in  
12 the collective bargaining agreement.

13       **§87A-J Eligibility.** Each board shall establish  
14 eligibility criteria to determine who may qualify as an  
15 employee-beneficiary, dependent-beneficiary, or qualified-  
16 beneficiary under its respective fund, consistent with the  
17 provisions of this chapter; provided that a retired employee  
18 shall not qualify as an employee-beneficiary or qualified-  
19 beneficiary.

20       **§87A-K Annual financial audit.** (a) Each fund shall be  
21 subject to an annual financial audit by an independent auditor.  
22 Each fund shall be responsible for the cost of its audit.





1 (b) The results of the annual audits of each fund shall be  
2 public records and shall be submitted to the relevant employers,  
3 the relevant exclusive representatives, and the legislature not  
4 later than six months after the end of the applicable fiscal  
5 year.

6 (c) The unaudited accounts of the bargaining units' use of  
7 the amounts specified in the applicable collective bargaining  
8 agreements shall be public records.

9 (d) The attorney general is authorized to investigate any  
10 discrepancies noted in any audit conducted pursuant to  
11 subsection (a) or discovered on the attorney general's own  
12 initiative. The attorney general may take corrective action,  
13 including filing criminal charges, if necessary.

14 (e) Any surplus or deficit at the end of a fiscal year,  
15 which results from the provision of health and other benefit  
16 plans, shall be included in the unaudited accounts of the  
17 respective fund.

18 **PART . COMPOSITION OF THE BOARDS OF TRUSTEES**

19 **§87A-L Composition of the board of trustees of the Hawaii**  
20 **public employee health benefits trust fund.** (a) The board of  
21 trustees of the Hawaii public employee health benefits trust  
22 fund shall consist of seven trustees, appointed as follows:



- 1 (1) Three trustees shall be appointed by the governor;
- 2 (2) Two trustees shall be appointed by the president of
- 3 the senate; and
- 4 (3) Two trustees shall be appointed by the speaker of the
- 5 house of representatives.

6 (b) Section 26-34 shall not apply to board member  
 7 selection and terms.

8 **§87A-M Composition of the boards of trustees of the**  
 9 **bargaining unit health benefits trust funds.** (a) Each board of  
 10 trustees of a bargaining unit health benefits trust fund shall  
 11 consist of seven trustees appointed by the governor from a list  
 12 of nominees submitted by the exclusive representative  
 13 organization. The list submitted by the exclusive  
 14 representative organization shall contain at least two nominees  
 15 for each available position.

16 (b) Section 26-34 shall not apply to board member  
 17 selection and terms.

18 (c) As used in this section, the term "exclusive  
 19 representative" shall have the same meaning as in section 89-2.

20 **PART . ADDITIONAL POWERS AND DUTIES OF THE BOARD OF THE**  
 21 **HAWAII PUBLIC EMPLOYEE HEALTH BENEFITS TRUST FUND**

22 **§87A-N Definitions.** For purposes of this part:



1 "Board" means the board of trustees of the Hawaii public  
2 employee health benefits trust fund.

3 "Fund" means the Hawaii public employee health benefits  
4 trust fund.

5 **§87A-0 Plans for part-time, temporary, and seasonal or**  
6 **casual employees.** (a) The board may offer medical, hospital,  
7 or surgical benefits plans to part-time, temporary, and seasonal  
8 or casual employees at no cost to the employers. The board may  
9 determine eligibility for part-time, temporary, and seasonal or  
10 casual employees by rules exempt from chapter 91 as provided in  
11 section 87A-26.

12 (b) The board shall establish the medical, hospital, or  
13 surgical benefits plan or plans, which shall be exempt from the  
14 minimum group requirements of article 10A of chapter 431. The  
15 medical, hospital, or surgical benefits plan or plans shall  
16 provide, pay for, arrange for, or reimburse the cost of medical,  
17 hospital, or surgical services, and may include prescribed  
18 hospital in-patient and out-patient service and medical  
19 benefits.

20 (c) The board may contract for the medical, hospital, or  
21 surgical benefits plan or plans. Each part-time, temporary, and  
22 seasonal or casual employee enrolled for medical, hospital, or



1 surgical benefits shall pay monthly contributions directly to  
2 the fund's designated carriers. The monthly contributions may  
3 include the carrier's administrative costs.

4 **§87A-P Health benefits plan supplemental to medicare.** The  
5 board shall establish a health benefits plan, which takes into  
6 account benefits available to an employee-beneficiary and spouse  
7 under medicare, subject to the following conditions:

8 (1) There shall be no duplication of benefits payable  
9 under medicare. The plan under this section, which  
10 shall be secondary to medicare, when combined with  
11 medicare and any other plan to which the health  
12 benefits plan is subordinate under the National  
13 Association of Insurance Commissioners' coordination  
14 of benefit rules, shall provide benefits that  
15 approximate those provided to a similarly situated  
16 beneficiary not eligible for medicare;

17 (2) The State, through the department of budget and  
18 finance, and the counties, through their respective  
19 departments of finance, shall pay to the fund a  
20 contribution equal to an amount not less than the  
21 medicare part B premium, for each of the following who



1 are enrolled in the medicare part B medical insurance  
2 plan:

- 3 (A) An employee-beneficiary who is a retired  
4 employee;
- 5 (B) An employee-beneficiary's spouse while the  
6 employee-beneficiary is living; and
- 7 (C) An employee-beneficiary's spouse, after the death  
8 of the employee-beneficiary, if the spouse  
9 qualifies as an employee-beneficiary.

10 For purposes of this section, a "retired employee"  
11 means retired members of the employees' retirement  
12 system; county pension system; or a police,  
13 firefighters, or bandsmen pension system of the State  
14 or a county as set forth in chapter 88. If the amount  
15 reimbursed by the fund under this section is less than  
16 the actual cost of the medicare part B medical  
17 insurance plan due to an increase in the medicare part  
18 B medical insurance plan rate, the fund shall  
19 reimburse each employee-beneficiary and employee-  
20 beneficiary's spouse for the cost increase within  
21 thirty days of the rate change. Each employee-  
22 beneficiary and employee-beneficiary's spouse who

1 becomes entitled to reimbursement from the fund for  
2 medicare part B premiums after July 1, 2006, shall  
3 designate a financial institution account into which  
4 the fund shall be authorized to deposit  
5 reimbursements. This method of payment may be waived  
6 by the fund if another method is determined to be more  
7 appropriate;

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

16 (4) The board shall determine which of the employee-  
17 beneficiaries and dependent-beneficiaries, who are not  
18 enrolled in the medicare part B medical insurance  
19 plan, may participate in the plans offered by the  
20 fund.

21 **PART . FIDUCIARY DUTIES**

1       **§87A-Q Definition.** For purposes of this part, a fiduciary  
2 shall mean the trustees appointed under section 87A-L and 87A-M.

3       **§87A-R Fiduciaries of the funds.** The members of the board  
4 of the Hawaii public employee health benefits trust fund and the  
5 members of the boards of the bargaining unit health benefits  
6 trust funds are fiduciaries of the respective funds.

7       **§87A-S Fiduciary duties; prohibited transactions.** A  
8 fiduciary shall comply, with respect to the fund, with all  
9 fiduciary duties imposed on fiduciaries under Title 29 United  
10 States Code Sections 1101-1191c, as amended, and related  
11 regulations.

12       **§87A-T Liability for breach of fiduciary duty.** (a) Any  
13 person who is a fiduciary of the fund and who breaches any of  
14 the responsibilities, obligations, or duties imposed on  
15 fiduciaries under section 87A-S shall be personally liable to  
16 reimburse any losses to the fund resulting from each breach and  
17 to restore to the fund any profits of the fiduciary that have  
18 been made through the use of assets of the fund by the  
19 fiduciary, and may be subject to any other equitable and  
20 remedial relief as the court may deem appropriate, including  
21 removal of the fiduciary; provided that the liability created by  
22 this section is only to the fund and not to individual



1 participants or beneficiaries of the fund and does not apply to  
2 the design, amendment, or termination of health or other benefit  
3 plans established by the board.

4 (b) No attorneys' fees or costs incurred in bringing a  
5 claim arising under this section, including under a private  
6 attorney general doctrine, may be recovered from the fund, the  
7 State, or any county.

8 (c) Any provision in any agreement or instrument that  
9 purports to relieve a fiduciary of responsibility or liability  
10 for any responsibility, obligation, or duty under section 87A-S  
11 shall be void as against public policy. However, nothing in  
12 this section shall preclude:

13 (1) A fiduciary from claiming immunity under section 26-  
14 35.5(b);

15 (2) The fund from purchasing insurance for its fiduciaries  
16 or for itself to cover liability or losses occurring  
17 by reason of the act or omission of a fiduciary in the  
18 case of a breach of a fiduciary obligation by the  
19 fiduciary, if the insurance permits recourse by the  
20 insurer against the fiduciary in the case of a breach  
21 of fiduciary obligation by the fiduciary; or





- 1           (3) A fiduciary from purchasing insurance to cover the  
2           fiduciary's own liability for breach of fiduciary  
3           duty.
- 4           (d) If the fund purchases insurance for its fiduciaries or  
5 itself:
- 6           (1) The fund's and the fiduciaries' liability for any  
7           money damages, losses, costs, and expenses caused by  
8           any fiduciary breaches of the responsibilities,  
9           obligations, or duties imposed under section 87A-S  
10           shall be strictly limited to the extent of the  
11           insurance unless the fund or fiduciaries' breach is  
12           intentional, wilful, or criminal; and
- 13           (2) The amount of insurance purchased shall be reasonable  
14           and sufficient to cover the potential liability of the  
15           fund or its fiduciaries.
- 16           (e) In no event shall the State or any county be liable  
17 for any money damages, losses, costs or expenses caused by a  
18 fiduciary's breach of any of the responsibilities, obligations,  
19 or duties imposed on fiduciaries under section 87A-S. Neither  
20 the State nor any county shall be obligated to defend or  
21 indemnify any fiduciary against a claim arising under this  
22 section."



1 SECTION 3. Chapter 87A, Hawaii Revised Statutes, is  
2 amended by adding a new section to part II to be appropriately  
3 designated and to read as follows:

4 "§87A- Definitions. As used in this part:

5 "Board" means the board of trustees of the Hawaii public  
6 employee health benefits trust fund and the boards of trustees  
7 of the bargaining unit health benefits trust funds.

8 "Fund" means the Hawaii public employee health benefits  
9 trust fund and the bargaining unit health benefits trust funds.

10 "Trustee" means a trustee of the board of trustees of the  
11 Hawaii public employee health benefits trust fund and a trustee  
12 of a board of trustees of a bargaining unit health benefits  
13 trust fund."

14 SECTION 4. Chapter 87A, Hawaii Revised Statutes, is  
15 amended by adding a new section to part III to be appropriately  
16 designated and to read as follows:

17 "§87A- Definitions. As used in this part:

18 "Board" means the board of trustees of the Hawaii public  
19 employee health benefits trust fund and the boards of trustees  
20 of the bargaining unit health benefits trust funds.

21 "Fund" means the Hawaii public employee health benefits  
22 trust fund and the bargaining unit health benefits trust funds."



1 SECTION 5. Chapter 87A, Hawaii Revised Statutes, is  
2 amended by adding three new sections to part IV to be  
3 appropriately designated and to read as follows:

4 "§87A- Definitions. For the purposes of this part:

5 "Fund" means the Hawaii public employee health benefits  
6 trust fund.

7 §87A- Fund staff. (a) Managerial employees employed  
8 by the fund shall be exempt from chapter 76. The fund may  
9 employ, subject to chapter 76, other employees necessary for the  
10 efficient functioning of the fund.

11 (b) Subsection (a) shall apply to the managerial and other  
12 employees of the fund; provided that:

13 (1) No employee employed prior to the effective date of  
14 Act , Session Laws of Hawaii 2011, by the fund shall  
15 be affected by this subsection; and

16 (2) Upon becoming vacant, any non-managerial position  
17 filled on or after the effective date of Act ,  
18 Session Laws of Hawaii 2011, by the fund shall be  
19 filled pursuant to chapter 76.

20 §87A- Eligibility. (a) The board shall establish  
21 eligibility criteria to determine who may qualify as an  
22 employee-beneficiary, dependent-beneficiary, or qualified-



1 beneficiary, consistent with this chapter; provided that the  
2 employee-beneficiary or qualified-beneficiary is or was employed  
3 by an appropriate authority and is not included in an  
4 appropriate bargaining unit under section 89-6.

5 (b) A retired member of the employees' retirement system;  
6 a county pension system; or a police, firefighters, and bandsmen  
7 pension system of the State or county, shall be eligible to  
8 qualify as an employee-beneficiary:

9 (1) Regardless of whether the retired member was actively  
10 employed by the State or county at the time of the  
11 retired employee's retirement; and

12 (2) Without regard to the date of the retired member's  
13 retirement.

14 (c) A dependent of a retired member shall be eligible to  
15 qualify as an employee-beneficiary or dependent-beneficiary:

16 (1) Regardless of whether the retired member was actively  
17 employed by the State or county at the time of the  
18 retired employee's retirement; and

19 (2) Without regard to the date of the retired member's  
20 retirement."

21 SECTION 6. Section 28-8.3, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) No department of the State other than the attorney  
2 general may employ or retain any attorney, by contract or  
3 otherwise, for the purpose of representing the State or the  
4 department in any litigation, rendering legal counsel to the  
5 department, or drafting legal documents for the department;  
6 provided that the foregoing provision shall not apply to the  
7 employment or retention of attorneys:

8           (1) By the public utilities commission, the labor and  
9 industrial relations appeals board, and the Hawaii  
10 labor relations board;

11           (2) By any court or judicial or legislative office of the  
12 State; provided that if the attorney general is  
13 requested to provide representation to a court or  
14 judicial office by the chief justice or the chief  
15 justice's designee, or to a legislative office by the  
16 speaker of the house of representatives and the  
17 president of the senate jointly, and the attorney  
18 general declines to provide such representation on the  
19 grounds of conflict of interest, the attorney general  
20 shall retain an attorney for the court, judicial, or  
21 legislative office, subject to approval by the court,  
22 judicial, or legislative office;



- 1 (3) By the legislative reference bureau;
- 2 (4) By any compilation commission that may be constituted
- 3 from time to time;
- 4 (5) By the real estate commission for any action involving
- 5 the real estate recovery fund;
- 6 (6) By the contractors license board for any action
- 7 involving the contractors recovery fund;
- 8 (7) By the trustees for any action involving the travel
- 9 agency recovery fund;
- 10 (8) By the office of Hawaiian affairs;
- 11 (9) By the department of commerce and consumer affairs for
- 12 the enforcement of violations of chapters 480 and
- 13 485A;
- 14 (10) As grand jury counsel;
- 15 (11) By the Hawaiian home lands trust individual claims
- 16 review panel;
- 17 (12) By the Hawaii health systems corporation, or its
- 18 regional system boards, or any of their facilities;
- 19 (13) By the auditor;
- 20 (14) By the office of ombudsman;
- 21 (15) By the insurance division;
- 22 (16) By the University of Hawaii;



- 1 (17) By the Kahoolawe island reserve commission;
- 2 (18) By the division of consumer advocacy;
- 3 (19) By the office of elections;
- 4 (20) By the campaign spending commission;
- 5 (21) By the Hawaii tourism authority, as provided in
- 6 section 201B-2.5;
- 7 (22) By the division of financial institutions for any
- 8 action involving the mortgage loan recovery fund; [~~or~~]
- 9 (23) By the Hawaii public employee health benefits trust
- 10 fund and the bargaining unit health benefits trust
- 11 funds, as provided in section 87A-9; or
- 12 [~~(23)~~] (24) By a department, in the event the attorney
- 13 general, for reasons deemed by the attorney general to
- 14 be good and sufficient, declines to employ or retain
- 15 an attorney for a department; provided that the
- 16 governor thereupon waives the provision of this
- 17 section."

18 SECTION 7. Chapter 87A, Hawaii Revised Statutes, is  
 19 amended by amending its title to read as follows:

20 "~~[HAWAII EMPLOYER-UNION] HEALTH BENEFITS TRUST [FUND]~~ FUNDS"



1 SECTION 8. Section 87A-1, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4 "Bargaining unit health benefits trust fund" means a  
5 health benefits trust fund described in section 87A-A.

6 "Hawaii public employee health benefits trust fund" means  
7 the health benefits trust fund described in section 87A-30."

8 SECTION 9. Section 87A-1, Hawaii Revised Statutes, is  
9 amended by amending the definitions of "contribution", "health  
10 benefits plan", "long-term care benefits plan", and "periodic  
11 charge" to read as follows:

12 "Contribution" means money payments made to any of the  
13 [fund] funds established by sections 87A-30 or 87A-B by the  
14 State, the counties, an employee-beneficiary, or a qualified-  
15 beneficiary.

16 "Health benefits plan" means:

- 17 (1) A group insurance contract or service agreement that  
18 may include medical, hospital, surgical, prescribed  
19 drugs, vision, and dental services, in which a carrier  
20 agrees to provide, pay for, arrange for, or reimburse  
21 the cost of the services as determined by the  
22 respective board; or





1 (2) A similar schedule of benefits established by the  
 2 respective board and provided through the fund on a  
 3 self-insured basis.

4 "Long-term care benefits plan" means:

5 (1) A group insurance contract or service agreement in  
 6 which a carrier agrees to provide, pay for, arrange  
 7 for, or reimburse the cost of long-term care benefits  
 8 as determined by the respective board; or

9 (2) A similar schedule of benefits established by the  
 10 respective board and provided through the fund on a  
 11 self-insured basis.

12 "Periodic charge" means the periodic payment by the  
 13 respective board to a carrier for any health benefits plan or  
 14 long-term care benefits plan."

15 SECTION 10. Section 87A-1, Hawaii Revised Statutes, is  
 16 amended by deleting the definitions of "board", "fund", and  
 17 "trustee".

18 [~~"Board" means the board of trustees of the Hawaii~~  
 19 ~~employer union health benefits trust fund described in section~~  
 20 ~~87A-5.~~

21 ~~"Fund" means the Hawaii employer union health benefits~~  
 22 ~~trust fund established in section 87A-30.~~



1       ~~"Trustee" means a trustee of the board of trustees of the~~  
2 ~~Hawaii employer-union health benefits trust fund, as described~~  
3 ~~in section 87A-5."]~~

4       SECTION 11. Chapter 87A, Hawaii Revised Statutes, is  
5 amended by amending the title to part II to read as follows:

6               **"PART II. [BOARD] BOARDS OF TRUSTEES"**

7       SECTION 12. Section 87A-6, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§87A-6 Term of a trustee; vacancy.** The term of office of  
10 each trustee shall be four years; provided that a trustee may be  
11 reappointed for one additional consecutive four-year term.

12       A vacancy on the board shall be filled in the same manner  
13 as the trustee who vacated that position was nominated or  
14 appointed; provided that the criteria used for nominating or  
15 appointing the successor shall be the same criteria used for  
16 nominating or appointing the person's predecessor[; ~~provided~~  
17 ~~further that vacancies on the board for each trustee position~~  
18 ~~representing retirees and employee beneficiaries appointed under~~  
19 ~~section 87A-5(1) (A) and (B) shall be filled by appointment of~~  
20 ~~the governor as follows:~~

21       ~~(1) If a vacancy occurs in one of the trustee positions~~  
22       ~~described in section 87A-5(1) (A), then the vacancy~~



1           ~~shall be appointed from a list of two nominees~~  
2           ~~submitted by the exclusive employee representative~~  
3           ~~from among the three largest exclusive employee~~  
4           ~~representatives that does not have a trustee among the~~  
5           ~~three trustee positions;~~

6           ~~(2) If a vacancy occurs in a trustee position described in~~  
7           ~~section 87A-5(1)(B), then the vacancy shall be~~  
8           ~~appointed from a list of two nominees submitted by~~  
9           ~~mutual agreement of the exclusive employee~~  
10           ~~representatives described in section 87A-5(1)(B); and~~

11           ~~(3) If a vacancy occurs in the retiree position described~~  
12           ~~in section 87A-5(1)(C), then the vacancy shall be~~  
13           ~~appointed from a list of two nominees submitted by~~  
14           ~~mutual agreement of all eligible exclusive employee~~  
15           ~~representatives].~~

16           If by the end of a trustee's term the trustee is not  
17           reappointed or the trustee's successor is not appointed, the  
18           trustee shall serve until the trustee's successor is appointed."

19           SECTION 13. Section 87A-7, Hawaii Revised Statutes, is  
20           amended to read as follows:

21           "~~[+]§87A-7[+]~~ **Chair, vice-chair, and secretary-treasurer.**

22           The trustees of each board shall elect from among the members of



1 the respective board a chair, a vice-chair, and a secretary-  
2 treasurer."

3 SECTION 14. Section 87A-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§87A-8[+] **Compensation and expenses.** Each trustee  
6 shall serve without compensation, but the trustees may be  
7 reimbursed from the respective fund for any reasonable expenses  
8 incurred in carrying out the purposes of the [fund.] respective  
9 funds."

10 SECTION 15. Section 87A-9, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§87A-9[+] **Legal adviser.** (a) The attorney general  
13 shall serve as legal adviser to the board of the Hawaii public  
14 employee health benefits trust fund and shall provide legal  
15 representation for the Hawaii [~~employer-union~~] public employeé  
16 health benefits trust fund.

17 (b) The attorney general shall serve as legal adviser to  
18 each of the boards of the bargaining unit health benefits trust  
19 funds and shall provide legal representation for the bargaining  
20 unit health benefits trust funds; provided that the board has  
21 not retained private counsel pursuant to section 28-8.3."



1 SECTION 16. Section 87A-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§87A-10[+] **Meetings; notice.** Meetings of each board  
4 may be scheduled, and notice of meetings shall be provided as  
5 follows:

6 (1) The chairperson may call a meeting of the board at any  
7 time by giving at least six calendar days' written  
8 notice of the time and place of the meeting to all  
9 trustees; and

10 (2) A majority of the trustees may call a meeting of the  
11 board by giving at least ten calendar days' written  
12 notice of the time and place to all other trustees."

13 SECTION 17. Section 87A-12, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]§87A-12[+] **Records and minutes.** [The] Each board  
16 shall keep records and minutes of all meetings of the board."

17 SECTION 18. Chapter 87A, Hawaii Revised Statutes, is  
18 amended by amending the title of part III to read as to read as  
19 follows:

20 "PART III. [~~BOARD~~] **POWERS AND DUTIES OF THE BOARDS**"

21 SECTION 19. Section 87A-15, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "~~[+]§87A-15[+]~~ **Administration of the ~~[fund-]~~ funds**. The  
2 ~~[board]~~ boards shall administer and carry out the purpose of the  
3 ~~[fund-]~~ funds. ~~[Health and other benefit plans shall be~~  
4 ~~provided at a cost affordable to both the public employers and~~  
5 ~~the public employees.]"~~

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

8           "~~[+]§87A-16[+]~~ **Health benefits plan; carriers.** (a) ~~[The]~~  
9 Each board shall establish the health benefits plan or plans~~[7]~~  
10 for its respective fund, which shall be exempt from the minimum  
11 group requirements of chapter 431.

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

15           SECTION 21. 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]~~ Each board may provide benefits under  
19 a group life insurance benefits program or group life insurance  
20 program to the fund's respective employees."

21           SECTION 22. Section 87A-18, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§87A-18 Long-term care benefits plan; carrier or third-  
2 party administrator. (a) [~~The~~] Each board may establish a  
3 long-term care benefits plan or plans for the respective fund's  
4 employee-beneficiaries; the spouses, parents, grandparents, in-  
5 law parents, and in-law grandparents of the respective fund's  
6 employee-beneficiaries; and qualified-beneficiaries. [~~The~~] Any  
7 long-term care benefits plan or plans established by the Hawaii  
8 public employee health benefits trust fund for its employee-  
9 beneficiaries shall be established at no cost to employers and  
10 shall comply with article 10H of chapter 431.

11           (b) Notwithstanding any other law to the contrary, long-  
12 term care benefits shall be available only to:

13           (1) Employee-beneficiaries and their spouses, parents, and  
14           grandparents;

15           (2) Employee-beneficiary in-law parents and grandparents;  
16           and

17           (3) Qualified-beneficiaries who enroll between the ages of  
18           twenty and eighty-five,

19 who comply with the respective plan's age, enrollment, medical  
20 underwriting, and contribution requirements.



1 (c) [~~The~~] Each board may contract with a carrier to  
2 provide fully insured benefits or with a third-party  
3 administrator to administer self-insured benefits."

4 SECTION 23. Section 87A-22, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§87A-22[+] **Benefits plan information and enrollment.**

7 (a) [~~The~~] Each board shall make information summarizing  
8 approved benefits plans available to each employee-  
9 beneficiary[~~-~~] covered by the respective benefits plan. The  
10 information [~~shall~~], to the extent reasonably possible, shall be  
11 distributed to each employee-beneficiary covered by a benefits  
12 plan at the same time and in the same manner.

13 (b) [~~The~~] Each board shall establish conditions and  
14 procedures for benefits plan enrollment."

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

17 "§87A-24 **Other powers.** In addition to the power to  
18 administer the fund, [~~the~~] each board may:

19 (1) Collect, receive, deposit, and withdraw money on  
20 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; provided that this  
12                  paragraph shall not apply to the Hawaii public  
13                  employee health benefits trust fund;
- 14           (5) Make payments of periodic charges and pay for  
15                   reasonable expenses incurred in carrying out the  
16                   purposes of the fund;
- 17           (6) Contract for the performance of financial audits of  
18                   the fund and claims audits of its insurance carriers;
- 19           (7) Retain auditors, actuaries, investment firms and  
20                   managers, benefit plan consultants, or other  
21                   professional advisors to carry out the purposes of  
22                   this chapter;



1           (8) Establish health benefits plan and long-term care  
 2           benefits plan rates that include administrative and  
 3           other expenses necessary to effectuate the purposes of  
 4           the fund; and

5           (9) Require any department, agency, or employee of the  
 6           State or counties to furnish information to the board  
 7           to carry out the purposes of this chapter."

8           SECTION 25. Section 87A-25, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10           "~~§~~87A-25~~§~~ **Other duties.** [~~The~~] Each board shall:

11           (1) Authorize charges and payments from the fund only upon  
 12           vouchers countersigned by the chairperson and any  
 13           other person designated by the board;

14           (2) Maintain accurate records and accounts of all  
 15           financial transactions of the fund that shall be  
 16           audited annually and summarized in an annual report to  
 17           the governor and legislature;

18           (3) Maintain suitable and adequate records and provide  
 19           information requested by State and county employers as  
 20           necessary to carry out the purpose of the fund;

21           (4) Procure fiduciary liability insurance and error and  
 22           omissions coverage for all trustees; and



1 (5) Procure a fidelity bond of a reasonable amount for the  
2 chairperson and any other person authorized to handle  
3 fund moneys."

4 SECTION 26. Section 87A-26, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~H~~]§87A-26[~~H~~] Rules; policies, standards, and procedures.

7 (a) [~~The~~] Each board may adopt rules for the purposes of this  
8 chapter. Rules shall be adopted without regard to chapter 91.  
9 Rule-making procedures shall be adopted by [~~the~~] each board and  
10 shall minimally provide for:

11 (1) Consultation with employers and affected employee  
12 organizations with regard to proposed rules;

13 (2) Adoption of rules at open meetings that permit the  
14 attendance of any interested persons;

15 (3) Approval of rules by the governor; and

16 (4) Filing of rules with the lieutenant governor.

17 (b) [~~The~~] Each board may also issue policies, standards,  
18 and procedures consistent with its rules.

19 (c) [~~The~~] Each board may adopt rules, without regard to  
20 chapter 91, governing dispute resolution procedures in the event  
21 of impasse in decision-making; provided that the rules shall be  
22 adopted with the concurrence of six trustees."



1 SECTION 27. Chapter 87A, Hawaii Revised Statutes, is  
2 amended by amending the title of part IV to read as follows:

3 "PART IV. HAWAII PUBLIC EMPLOYEE HEALTH BENEFITS TRUST FUND"

4 SECTION 28. Section 87A-30, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "~~§87A-30~~ Hawaii [~~employer-union~~] public employee health  
7 benefits trust fund; establishment. There is established  
8 outside the state treasury, a trust fund to be known as the  
9 "Hawaii [~~Employer-Union~~] Public Employee Health Benefits Trust  
10 Fund". The fund shall consist of contributions, interest,  
11 income, dividends, refunds, rate credits, and other returns. It  
12 is hereby declared that any and all sums contributed or paid  
13 from any source to the fund created by this part, and all assets  
14 of the fund including any and all interest and earnings on the  
15 same, are and shall be held in trust by the board for the  
16 exclusive use and benefit of the employee-beneficiaries and  
17 dependent-beneficiaries and shall not be subject to  
18 appropriation for any other purpose whatsoever. The fund shall  
19 be under the control of the board and placed under the  
20 department of budget and finance for administrative purposes."

21 SECTION 29. Section 87A-32, Hawaii Revised Statutes, is  
22 amended to read as follows:



1            "[+]§87A-32[+]    **State and county contributions; active**  
2 **employees.** [~~a~~] The State, through the department of budget  
3 and finance, and the counties, through their respective  
4 departments of finance, shall pay to the fund a monthly  
5 contribution equal to the amount established under chapter 89C  
6 [~~or specified in the applicable public sector collective~~  
7 ~~bargaining agreements, whichever is appropriate,~~] for each of  
8 their respective employee-beneficiaries and employee-  
9 beneficiaries with dependent-beneficiaries, which shall be used  
10 toward the payment of costs of [a] health or other [~~benefits~~  
11 ~~plan~~] benefit plans; provided that:

- 12            (1) The monthly contribution shall be a specified dollar  
13            amount;
- 14            (2) The monthly contribution shall not exceed the actual  
15            cost of a health benefits plan;
- 16            (3) If both husband and wife are employee-beneficiaries,  
17            the total contribution by the State or the county  
18            shall not exceed the monthly contribution for a family  
19            plan; and
- 20            (4) If the State or any of the counties establish  
21            cafeteria plans in accordance with Title 26, United  
22            States Code section 125, the Internal Revenue Code of



1           1986, as amended, and part II of chapter 78, the  
2           monthly contribution for those employee-beneficiaries  
3           who participate in a cafeteria plan shall be made  
4           through the cafeteria plan, and the payments made by  
5           the State or counties shall include their respective  
6           contributions to the fund and their employee-  
7           beneficiary's share of the cost of the employee-  
8           beneficiary's health benefits plan.

9           ~~[(b) The State, through the department of budget and  
10          finance, and the counties, through their respective departments  
11          of finance, shall pay to the fund a monthly contribution equal  
12          to the amount established under chapter 89C or specified in the  
13          applicable public sector collective bargaining agreement,  
14          whichever is applicable, for each of their respective employees,  
15          to be used toward the payment of group life insurance benefits  
16          for each employee.]"~~

17           SECTION 30. Section 89-9, Hawaii Revised Statutes, is  
18           amended by amending subsection (e) to read as follows:

19           "(e) Negotiations relating to contributions to the [~~Hawaii~~  
20          ~~employer-union health benefits trust fund~~] bargaining unit  
21          health benefits trust funds shall be for the purpose of agreeing  
22          upon the amounts which the State and counties shall contribute



1 under [~~section 87-4,~~] section 87A-E toward the payment of the  
 2 costs for [a] health [~~benefits plan, as defined in section 87-~~  
 3 ~~1(8), and group life insurance benefits,~~] and other benefit  
 4 plans, in accordance with section 87A-C, and the parties shall  
 5 not be bound by the amounts contributed under prior agreements[~~→~~  
 6 ~~provided that section 89-11 for the resolution of disputes by~~  
 7 ~~way of arbitration shall not be available to resolve impasses or~~  
 8 ~~disputes relating to the amounts the State and counties shall~~  
 9 ~~contribute to the Hawaii employer-union health benefits trust~~  
 10 ~~fund]."~~

11 SECTION 31. Section 89-11, Hawaii Revised Statutes, is  
 12 amended as follows:

13 1. By amending subsection (c) to read:

14 "(c) An impasse over the terms of an initial or renewed  
 15 agreement and the date of impasse shall be as follows:

16 (1) More than ninety days after written notice by either  
 17 party to initiate negotiations, either party may give  
 18 written notice to the board that an impasse exists.

19 The date on which the board receives notice shall be  
 20 the date of impasse; and

21 (2) If neither party gives written notice of an impasse  
 22 and there are unresolved issues on [~~January 31~~] August



1           31 of [a] the second year [~~in which the agreement is~~  
2           ~~due to expire,~~] of a fiscal biennium, the board shall  
3           declare on [~~January 31~~] August 31 that an impasse  
4           exists and [~~February 1~~] September 1 shall be the date  
5           of impasse."

6           2. By amending subsection (e) to read:

7           "(e) If an impasse exists between a public employer and  
8           the exclusive representative of bargaining unit (2), supervisory  
9           employees in blue collar positions; bargaining unit (3),  
10          nonsupervisory employees in white collar positions; bargaining  
11          unit (4), supervisory employees in white collar positions;  
12          bargaining unit (6), educational officers and other personnel of  
13          the department of education under the same salary schedule;  
14          bargaining unit (8), personnel of the University of Hawaii and  
15          the community college system, other than faculty; bargaining  
16          unit (9), registered professional nurses; bargaining unit (10),  
17          institutional, health, and correctional workers; bargaining unit  
18          (11), firefighters; bargaining unit (12), police officers; or  
19          bargaining unit (13), professional and scientific employees, the  
20          board shall assist in the resolution of the impasse as follows:

21           (1) Mediation. During the first twenty days after the

22           date of impasse, the board shall immediately appoint a





1 mediator, representative of the public from a list of  
2 qualified persons maintained by the board, to assist  
3 the parties in a voluntary resolution of the impasse.

4 (2) Arbitration. If the impasse continues twenty days  
5 after the date of impasse, the board shall immediately  
6 notify the employer and the exclusive representative  
7 that the impasse shall be submitted to a three-member  
8 arbitration panel who shall follow the arbitration  
9 procedure provided herein.

10 (A) Arbitration panel. Two members of the  
11 arbitration panel shall be selected by the  
12 parties; one shall be selected by the employer  
13 and one shall be selected by the exclusive  
14 representative. The neutral third member of the  
15 arbitration panel, who shall chair the  
16 arbitration panel, shall be selected by mutual  
17 agreement of the parties. In the event that the  
18 parties fail to select the neutral third member  
19 of the arbitration panel within thirty days from  
20 the date of impasse, the board shall request the  
21 American Arbitration Association, or its  
22 successor in function, to furnish a list of five



1 qualified arbitrators from which the neutral  
2 arbitrator shall be selected. Within five days  
3 after receipt of such list, the parties shall  
4 alternately strike names from the list until a  
5 single name is left, who shall be immediately  
6 appointed by the board as the neutral arbitrator  
7 and chairperson of the arbitration panel.

8 (B) Final positions. Upon the selection and  
9 appointment of the arbitration panel, each party  
10 shall submit to the panel, in writing, with copy  
11 to the other party, a final position which shall  
12 include all provisions in any existing collective  
13 bargaining agreement not being modified, all  
14 provisions already agreed to in negotiations, and  
15 all further provisions which each party is  
16 proposing for inclusion in the final agreement.

17 (C) Arbitration hearing. Within [~~one hundred twenty~~  
18 sixty days of its appointment, the arbitration  
19 panel shall commence a hearing at which time the  
20 parties may submit either in writing or through  
21 oral testimony, all information or data  
22 supporting their respective final positions. The



1 arbitrator, or the chairperson of the arbitration  
2 panel together with the other two members, are  
3 encouraged to assist the parties in a voluntary  
4 resolution of the impasse through mediation, to  
5 the extent practicable throughout the entire  
6 arbitration period until the date the panel is  
7 required to issue its arbitration decision.

8 (D) Arbitration decision. Within thirty days after  
9 the conclusion of the hearing, a majority of the  
10 arbitration panel shall reach a decision pursuant  
11 to subsection (f) on all provisions that each  
12 party proposed in its respective final position  
13 for inclusion in the final agreement and transmit  
14 a preliminary draft of its decision to the  
15 parties. The parties shall review the  
16 preliminary draft for completeness, technical  
17 correctness, and clarity and may mutually submit  
18 to the panel any desired changes or adjustments  
19 that shall be incorporated in the final draft of  
20 its decision. Within fifteen days after the  
21 transmittal of the preliminary draft, a majority



1                   of the arbitration panel shall issue the  
2                   arbitration decision."

3           3. By amending subsections (g) and (h) to read:

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



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

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



1 (h) Any time frame provided in an impasse procedure,  
2 whether an alternate procedure or the procedures in this  
3 section, may be [~~modified~~] shortened by mutual agreement of the  
4 parties. [~~In the absence of a mutual agreement to modify time~~  
5 ~~frames, any~~] Time frames may not be extended in any impasse  
6 procedure. Any delay, failure, or refusal by either party to  
7 participate in the impasse procedure shall not be permitted to  
8 halt or otherwise delay the process, unless the board so orders  
9 due to an unforeseeable emergency. The process shall commence  
10 or continue as though all parties were participating."

11 SECTION 32. Section 103D-102, Hawaii Revised Statutes, is  
12 amended by amending subsection (c) to read as follows:

13 "(c) Notwithstanding subsection (a), this chapter shall  
14 not apply to contracts made by:

15 (1) Any regional system board of the Hawaii health systems  
16 corporation;

17 (2) The Kaho'olawe island reserve commission, except as  
18 provided by section 6K-4.5; [~~or~~]

19 [+](3)[+] Except with respect to sections 103D-110, 103D-304  
20 with respect to design professional services furnished  
21 by licensees under chapter 464, 103D-324, 103D-707,



1 and 103D-1002, the university or the board of regents  
2 of the university[-]; or

3 (4) Any bargaining unit health benefits trust fund  
4 established under section 87A-B, or the Hawaii public  
5 employee health benefits trust fund established under  
6 section 87A-30."

7 SECTION 33. Section 87A-5, Hawaii Revised Statutes, is  
8 repealed.

9 [~~§87A-5 Composition of board. The board of trustees of~~  
10 ~~the employer union health benefits trust fund shall consist of~~  
11 ~~ten trustees appointed by the governor in accordance with the~~  
12 ~~following procedure:~~

13 ~~(1) Five trustees, one of whom shall represent retirees,~~  
14 ~~to represent employee beneficiaries and to be selected~~  
15 ~~as follows:~~

16 ~~(A) Three trustees shall be appointed from a list of~~  
17 ~~two nominees per trustee selected by each of the~~  
18 ~~three exclusive representative organizations that~~  
19 ~~have the largest number of employee~~  
20 ~~beneficiaries;~~

21 ~~(B) One trustee shall be appointed from a list of two~~  
22 ~~nominees selected by mutual agreement of the~~



1 remaining exclusive employee representative  
 2 organizations; and  
 3 (C) One trustee representing retirees shall be  
 4 appointed from a list of two nominees selected by  
 5 mutual agreement of all eligible exclusive  
 6 representatives; and

7 (2) Five trustees to represent public employers.

8 Section 26-34 shall not apply to board member selection and  
 9 terms. Notwithstanding any other provision of this section, no  
 10 exclusive representative of a bargaining unit that sponsors or  
 11 participates in a voluntary employee beneficiary association  
 12 shall be eligible to select nominees or to be represented by a  
 13 trustee on the board.

14 As used in this section, the term "exclusive  
 15 representative" shall have the same meaning as in section 89-  
 16 2." ]

17 SECTION 34. Section 87A-11, Hawaii Revised Statutes, is  
 18 repealed.

19 ["~~§87A-11~~] ~~Quorum; board actions; voting.~~ (a) Six  
 20 trustees, three of whom represent the public employer and three  
 21 of whom represent employee beneficiaries, shall constitute a  
 22 quorum for the transaction of business.





1       ~~(b) Trustees representing the public employers shall~~  
2       ~~collectively have one vote. Trustees representing the employee-~~  
3       ~~beneficiaries shall collectively have one vote.~~

4       ~~For any vote of the trustees representing the public~~  
5       ~~employers to be valid, three of these trustees must concur to~~  
6       ~~cast such a vote. In the absence of such concurrence, the~~  
7       ~~trustees representing the public employers shall be deemed to~~  
8       ~~have abstained from voting.~~

9       ~~For any vote of the trustees representing the employee-~~  
10       ~~beneficiaries to be valid, three of these trustees must concur~~  
11       ~~to cast such a vote. In the absence of such concurrence, the~~  
12       ~~trustees representing the employee beneficiaries shall be deemed~~  
13       ~~to have abstained from voting.~~

14       ~~An abstention shall not be counted as either a vote in~~  
15       ~~favor or against a matter before the board.~~

16       ~~(c) Any action taken by the board shall be by the~~  
17       ~~concurrence of at least two votes. In the event of a tie vote~~  
18       ~~on any motion, the motion shall fail. Upon the concurrence of~~  
19       ~~six trustees, the board shall participate in dispute~~  
20       ~~resolution." ]~~

21       SECTION 35. Section 87A-19, Hawaii Revised Statutes, is  
22       repealed.



1           ~~["§87A-19] Plans for part-time, temporary, and seasonal~~  
2 ~~or casual employees. (a) The board may offer medical,~~  
3 ~~hospital, or surgical benefits plans to part-time, temporary,~~  
4 ~~and seasonal or casual employees at no cost to the employers.~~  
5 ~~The board may determine eligibility for part-time, temporary,~~  
6 ~~and seasonal or casual employees by rules exempt from chapter 91~~  
7 ~~as provided in section 87A-26.~~

8           ~~(b) The board shall establish the medical, hospital, or~~  
9 ~~surgical benefits plan or plans, which shall be exempt from the~~  
10 ~~minimum group requirements of article 10A of chapter 431. The~~  
11 ~~medical, hospital, or surgical benefits plan or plans shall~~  
12 ~~provide, pay for, arrange for, or reimburse the cost of medical,~~  
13 ~~hospital, or surgical services, and may include prescribed~~  
14 ~~hospital in-patient and out-patient service and medical~~  
15 ~~benefits.~~

16           ~~(c) The board may contract for the medical, hospital, or~~  
17 ~~surgical benefits plan or plans. Each part-time, temporary, and~~  
18 ~~seasonal or casual employee enrolled for medical, hospital, or~~  
19 ~~surgical benefits shall pay monthly contributions directly to~~  
20 ~~the board's designated carriers. The monthly contributions may~~  
21 ~~include the carrier's administrative costs." ]~~



1 SECTION 36. Section 87A-21, Hawaii Revised Statutes, is  
2 repealed.

3 [~~§87A-21~~ Eligibility. (a) The board shall establish  
4 eligibility criteria to determine who can qualify as an  
5 employee beneficiary, dependent beneficiary, or qualified  
6 beneficiary, consistent with the provisions of this chapter.

7 (b) A retired member of the employees' retirement system;  
8 a county pension system; or a police, firefighters, and bandsmen  
9 pension system of the State or county, shall be eligible to  
10 qualify as an employee beneficiary:

11 (1) Regardless of whether the retired member was actively  
12 employed by the State or county at the time of the  
13 retired employee's retirement; and

14 (2) Without regard to the date of the retired member's  
15 retirement.

16 (c) A dependent of a retired member shall be eligible to  
17 qualify as an employee beneficiary or dependent beneficiary:

18 (1) Regardless of whether the retired member was actively  
19 employed by the State or county at the time of the  
20 retired employee's retirement; and

21 (2) Without regard to the date of the retired member's  
22 retirement." ]



1 SECTION 37. Section 87A-23, Hawaii Revised Statutes, is  
2 repealed.

3 ~~["§87A-23 Health benefits plan supplemental to medicare.~~

4 ~~The board shall establish a health benefits plan, which takes~~  
5 ~~into account benefits available to an employee-beneficiary and~~  
6 ~~spouse under medicare, subject to the following conditions:~~

- 7 ~~(1) There shall be no duplication of benefits payable~~  
8 ~~under medicare. The plan under this section, which~~  
9 ~~shall be secondary to medicare, when combined with~~  
10 ~~medicare and any other plan to which the health~~  
11 ~~benefits plan is subordinate under the National~~  
12 ~~Association of Insurance Commissioners' coordination~~  
13 ~~of benefit rules, shall provide benefits that~~  
14 ~~approximate those provided to a similarly situated~~  
15 ~~beneficiary not eligible for medicare;~~
- 16 ~~(2) The State, through the department of budget and~~  
17 ~~finance, and the counties, through their respective~~  
18 ~~departments of finance, shall pay to the fund a~~  
19 ~~contribution equal to an amount not less than the~~  
20 ~~medicare part B premium, for each of the following who~~  
21 ~~are enrolled in the medicare part B medical insurance~~  
22 ~~plan: (A) an employee-beneficiary who is a retired~~



1 ~~employee, (B) an employee beneficiary's spouse while~~  
2 ~~the employee beneficiary is living, and (C) an~~  
3 ~~employee beneficiary's spouse, after the death of the~~  
4 ~~employee beneficiary, if the spouse qualifies as an~~  
5 ~~employee beneficiary. For purposes of this section, a~~  
6 ~~"retired employee" means retired members of the~~  
7 ~~employees' retirement system; county pension system;~~  
8 ~~or a police, firefighters, or bandsmen pension system~~  
9 ~~of the State or a county as set forth in chapter 88.~~  
10 ~~If the amount reimbursed by the fund under this~~  
11 ~~section is less than the actual cost of the medicare~~  
12 ~~part B medical insurance plan due to an increase in~~  
13 ~~the medicare part B medical insurance plan rate, the~~  
14 ~~fund shall reimburse each employee beneficiary and~~  
15 ~~employee beneficiary's spouse for the cost increase~~  
16 ~~within thirty days of the rate change. Each employee-~~  
17 ~~beneficiary and employee beneficiary's spouse who~~  
18 ~~becomes entitled to reimbursement from the fund for~~  
19 ~~medicare part B premiums after July 1, 2006, shall~~  
20 ~~designate a financial institution account into which~~  
21 ~~the fund shall be authorized to deposit~~  
22 ~~reimbursements. This method of payment may be waived~~



- 1           ~~by the fund if another method is determined to be more~~  
2           ~~appropriate;~~
- 3           ~~(3) The benefits available under this plan, when combined~~  
4           ~~with benefits available under medicare or any other~~  
5           ~~coverage or plan to which this plan is subordinate~~  
6           ~~under the National Association of Insurance~~  
7           ~~Commissioners' coordination of benefit rules, shall~~  
8           ~~approximate the benefits that would be provided to a~~  
9           ~~similarly situated employee-beneficiary not eligible~~  
10           ~~for medicare;~~
- 11           ~~(4) All employee-beneficiaries or dependent-beneficiaries~~  
12           ~~who are eligible to enroll in the medicare part B~~  
13           ~~medical insurance plan shall enroll in that plan as a~~  
14           ~~condition of receiving contributions and participating~~  
15           ~~in benefits plans under this chapter. This paragraph~~  
16           ~~shall apply to retired employees, their spouses, and~~  
17           ~~the surviving spouses of deceased retirees and~~  
18           ~~employees killed in the performance of duty; and~~
- 19           ~~(5) The board shall determine which of the employee-~~  
20           ~~beneficiaries and dependent-beneficiaries, who are not~~  
21           ~~enrolled in the medicare part B medical insurance~~



1           ~~plan, may participate in the plans offered by the~~  
2           ~~fund."]~~

3           SECTION 38. If any provision of this Act, or the  
4 application thereof to any person or circumstance is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act, which can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9           SECTION 39. In codifying the new sections added by section  
10 2 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 the new sections in this Act.

13           SECTION 40. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 41. This Act shall take effect on July 1, 2011;  
16 provided that:

17           (1) Sections 30 and 31 shall take effect upon approval;  
18           and

19           (2) The amendment made to section 103D-102(c), Hawaii  
20 Revised Statutes, by this Act shall not be repealed  
21 when section 103D-102, Hawaii Revised Statutes, is  
22 reenacted on July 1, 2012, by section 14 of Act 175,



# H.B. NO. 167

1 Session Laws of Hawaii 2009, and on July 1, 2013, by  
2 section 4 of Act 159, Session Laws of Hawaii 2010.

3

INTRODUCED BY: *Paul Akaka*  
JAN 20 2011





**Report Title:**

Hawaii Employer-Union Health Benefits Trust Fund; Reorganization

**Description:**

Establishes bargaining unit health benefits trust funds. Requires public employers and unions to negotiate employers' contributions. Amends the impasse procedures for certain bargaining units. Provides right to strike on the issue of a public employers' contribution for health and other benefits.

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

