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

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

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

13 (2) By any court or judicial or legislative office of the
14 State; provided that if the attorney general is
15 requested to provide representation to a court or
16 judicial office by the chief justice or the chief
17 justice's designee, or to a legislative office by the



- 1 speaker of the house of representatives and the
2 president of the senate jointly, and the attorney
3 general declines to provide such representation on the
4 grounds of conflict of interest, the attorney general
5 shall retain an attorney for the court, judicial, or
6 legislative office, subject to approval by the court,
7 judicial, or legislative office;
- 8 (3) By the legislative reference bureau;
- 9 (4) By any compilation commission that may be constituted
10 from time to time;
- 11 (5) By the real estate commission for any action involving
12 the real estate recovery fund;
- 13 (6) By the contractors license board for any action
14 involving the contractors recovery fund;
- 15 (7) By the trustees for any action involving the travel
16 agency recovery fund;
- 17 (8) By the office of Hawaiian affairs;
- 18 (9) By the department of commerce and consumer affairs for
19 the enforcement of violations of chapters 480 and
20 485A;
- 21 (10) As grand jury counsel;



- 1 (11) By the Hawaiian home lands trust individual claims
2 review panel;
- 3 (12) By the Hawaii health systems corporation, or its
4 regional system boards, or any of their facilities;
- 5 (13) By the auditor;
- 6 (14) By the office of ombudsman;
- 7 (15) By the insurance division;
- 8 (16) By the University of Hawaii;
- 9 (17) By the Kahoolawe island reserve commission;
- 10 (18) By the division of consumer advocacy;
- 11 (19) By the office of elections;
- 12 (20) By the campaign spending commission;
- 13 (21) By the Hawaii tourism authority, as provided in
14 section 201B-2.5;
- 15 (22) By the Hawaii employer-union health benefits trust
16 fund, as provided in section 87A-9;
- 17 [~~+22~~] (23) By the division of financial institutions for any
18 action involving the mortgage loan recovery fund; or
- 19 [~~+23~~] (24) By a department, in the event the attorney
20 general, for reasons deemed by the attorney general to
21 be good and sufficient, declines to employ or retain
22 an attorney for a department; provided that the



1 governor thereupon waives the provision of this
2 section."

3 SECTION 2. Section 87A-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~S~~87A-5 **Composition of board.** (a) The board of trustees
6 of the employer-union health benefits trust fund shall consist
7 of [~~ten~~] trustees appointed [~~by the governor in accordance with~~
8 ~~the following procedure:~~] as follows:

9 (1) [~~Five~~] Six trustees, one each of whom shall represent
10 [~~retirees, to represent~~] employee-beneficiaries [~~and~~
11 ~~to be selected as follows:~~

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

17 ~~(B) One trustee shall be appointed from a list of two~~
18 ~~nominees selected by mutual agreement of the~~
19 ~~remaining exclusive employee representative~~
20 ~~organizations; and~~

21 ~~(C) One trustee representing retirees shall be~~
22 ~~appointed from a list of two nominees selected by~~



1 ~~mutual agreement of all eligible exclusive~~
2 ~~representatives; and~~
3 ~~(2) Five trustees to represent public employers.] and~~
4 retirees as follows:

- 5 (A) One trustee for bargaining units (2), (3), (4),
6 (6), (8), (9), and (13);
7 (B) One trustee for bargaining unit (5);
8 (C) One trustee for bargaining unit (7);
9 (D) One trustee for bargaining units (1) and (10);
10 (E) One trustee for bargaining units (11) and (12);
11 and
12 (F) One trustee representing retirees.

13 Each trustee for a bargaining unit shall be appointed
14 by the governor from a list of three candidates
15 submitted to the governor by each exclusive bargaining
16 representative for the respective bargaining unit.
17 The trustee for retirees shall be a state or county
18 retiree and shall be appointed by the governor. A
19 vacancy shall be filled in the same manner as the
20 member's initial appointment; and

- 21 (2) Six trustees to represent public employers, as
22 follows:



1 (A) Three at-large trustees shall be appointed by the
2 governor to represent the State of Hawaii
3 administration;

4 (B) One trustee shall be nominated by the university
5 of Hawaii board of regents and appointed by the
6 governor;

7 (C) One trustee shall be nominated by the board of
8 education and appointed by the governor; and

9 (D) One trustee shall be appointed by the mayors of
10 the counties of Hawaii, Maui, and Kauai, and the
11 mayor of the city and county of Honolulu.

12 The trustees under subparagraph (A) shall be appointed
13 by the governor. A vacancy shall be filled in the
14 same manner as the member's initial appointment.

15 (b) Section 26-34 shall not apply to board member
16 selection and terms. Notwithstanding any other provision of
17 this section, no exclusive representative of a bargaining unit
18 that sponsors or participates in a voluntary employee
19 beneficiary association shall be eligible to select nominees or
20 to be represented by a trustee on the board.

21 (c) All trustees shall have a fiduciary duty to the
22 employee-beneficiaries of the fund.



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

3 SECTION 3. Section 87A-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§87A-9~~ **Legal adviser.** The ~~[attorney general shall]~~
6 board may appoint or retain by contract an attorney who is
7 independent of the attorney general to serve as legal adviser to
8 the board and shall provide legal representation for the
9 Hawaii employer-union health benefits trust fund. The legal
10 adviser shall have Employee Retirement Income Security Act
11 employee benefits experience, either from the private or public
12 sector."

13 SECTION 4. Section 87A-11, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§87A-11~~ **Quorum; board actions; voting.** (a) ~~[Six]~~
16 Eight trustees, ~~[three]~~ four of whom represent the public
17 ~~[employer]~~ employers and ~~[three]~~ four of whom represent
18 employee-beneficiaries ~~[7]~~ and retirees shall constitute a quorum
19 for the transaction of business.

20 (b) Trustees representing the public employers shall
21 collectively have one vote. Trustees representing the employee-
22 beneficiaries and retirees shall collectively have one vote.



1 For any vote of the trustees representing the public
2 employers to be valid, [~~three~~] four of these trustees must
3 concur to cast such a vote. In the absence of [~~such~~]
4 concurrence, the trustees representing the public employers
5 shall be deemed to have abstained from voting.

6 For any vote of the trustees representing the employee-
7 beneficiaries and retirees to be valid, [~~three~~] four of these
8 trustees must concur to cast such a vote. In the absence of
9 [~~such~~] concurrence, the trustees representing the employee-
10 beneficiaries and retirees shall be deemed to have abstained
11 from voting.

12 An abstention shall not be counted as either a vote in
13 favor or against a matter before the board.

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

19 SECTION 5. Section 87A-15, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "~~{}~~**\$87A-15**~~{}~~ **Administration of the fund.** The board
22 shall administer and carry out the purpose of the fund. Health



1 and other benefit plans shall be provided [~~at a cost affordable~~
2 ~~to both the public employers and the public employees.~~] as
3 follows:

- 4 (1) For collective bargaining units, based on the
5 collectively bargained contributions from both the
6 employers and the employees;
- 7 (2) For retirees, according to an appropriation by the
8 legislature and the respective counties; and
- 9 (3) For all other eligible beneficiaries, based on the
10 contribution from both the employer and employees."

11 SECTION 6. Section 87A-30, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§87A-30 Hawaii employer-union health benefits trust fund;**
14 **establishment.** There is established outside the state treasury,
15 a trust fund to be known as the "Hawaii Employer-Union Health
16 Benefits Trust Fund". The fund shall consist of contributions,
17 interest, income, dividends, refunds, rate credits, and other
18 returns. It is hereby declared that any and all sums
19 contributed or paid from any source to the fund created by this
20 part, and all assets of the fund including any and all interest
21 and earnings on the same, are and shall be held in trust by the
22 board for the exclusive use and benefit of the employee-



1 beneficiaries and dependent-beneficiaries and shall not be
2 subject to appropriation for any other purpose whatsoever. The
3 fund shall be under the control of the board of trustees and
4 placed under the department of [~~budget and finance~~] human
5 resources development for administrative purposes."

6 SECTION 7. Section 87A-6, Hawaii Revised Statutes, is
7 repealed.

8 "~~§87A-6 Term of a trustee; vacancy. The term of office~~
9 ~~of each trustee shall be four years; provided that a trustee may~~
10 ~~be reappointed for one additional consecutive four year term.~~

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

20 ~~(1) If a vacancy occurs in one of the trustee positions~~
21 ~~described in section 87A 5(1) (A), then the vacancy~~
22 ~~shall be appointed from a list of two nominees~~



1 ~~submitted by the exclusive employee representative~~
2 ~~from among the three largest exclusive employee~~
3 ~~representatives that does not have a trustee among the~~
4 ~~three trustee positions;~~

5 ~~(2) If a vacancy occurs in a trustee position described in~~
6 ~~section 87A 5(1) (B), then the vacancy shall be~~
7 ~~appointed from a list of two nominees submitted by~~
8 ~~mutual agreement of the exclusive employee~~
9 ~~representatives described in section 87A 5(1) (B); and~~
10 ~~(3) If a vacancy occurs in the retiree position described~~
11 ~~in section 87A 5(1) (C), then the vacancy shall be~~
12 ~~appointed from a list of two nominees submitted by~~
13 ~~mutual agreement of all eligible exclusive employee~~
14 ~~representatives.~~

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

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 9. This Act shall take effect on July 1, 2011.



Report Title:

Employer-union Health Benefits Trust Fund; Appointment; Fiduciary Duties; Independent Attorney Quorum; Department of Human Resources

Description:

Amends the appointment, composition, size and quorum requirements of the board of trustees of the Hawaii employer-union health benefits trust fund (EUTF). Permits the EUTF board of trustees to retain an attorney independent of the attorney general's office to represent the EUTF. Requires health and other benefit plans to be provided for collective bargaining units, retirees, and other eligible beneficiaries. Transfers the administration of the EUTF to the Department of Human Resources. Specifies that all trustees have a fiduciary duty to the employee-beneficiaries of the fund. Effective July 1, 2011. (SB1066 HD1)

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

