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

4           "§87A- Selection of benefit plan carriers. Procurement  
5 of a carrier, third-party administrator for any benefits plan,  
6 consultants, actuaries, auditors, or administrator shall be  
7 exempt from chapter 103D."

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

10          "(a) No department of the State other than the attorney  
11 general may employ or retain any attorney, by contract or  
12 otherwise, for the purpose of representing the State or the  
13 department in any litigation, rendering legal counsel to the  
14 department, or drafting legal documents for the department;  
15 provided that the foregoing provision shall not apply to the  
16 employment or retention of attorneys:



- 1 (1) By the public utilities commission, the labor and  
2 industrial relations appeals board, and the Hawaii  
3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the  
5 State; provided that if the attorney general is  
6 requested to provide representation to a court or  
7 judicial office by the chief justice or the chief  
8 justice's designee, or to a legislative office by the  
9 speaker of the house of representatives and the  
10 president of the senate jointly, and the attorney  
11 general declines to provide such representation on the  
12 grounds of conflict of interest, the attorney general  
13 shall retain an attorney for the court, judicial, or  
14 legislative office, subject to approval by the court,  
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted  
18 from time to time;
- 19 (5) By the real estate commission for any action involving  
20 the real estate recovery fund;
- 21 (6) By the contractors license board for any action  
22 involving the contractors recovery fund;



- 1 (7) By the trustees for any action involving the travel
- 2 agency recovery fund;
- 3 (8) By the office of Hawaiian affairs;
- 4 (9) By the department of commerce and consumer affairs for
- 5 the enforcement of violations of chapters 480 and
- 6 485A;
- 7 (10) As grand jury counsel;
- 8 (11) By the Hawaiian home lands trust individual claims
- 9 review panel;
- 10 (12) By the Hawaii health systems corporation, or its
- 11 regional system boards, or any of their facilities;
- 12 (13) By the auditor;
- 13 (14) By the office of ombudsman;
- 14 (15) By the insurance division;
- 15 (16) By the University of Hawaii;
- 16 (17) By the Kahoolawe island reserve commission;
- 17 (18) By the division of consumer advocacy;
- 18 (19) By the office of elections;
- 19 (20) By the campaign spending commission;
- 20 (21) By the Hawaii tourism authority, as provided in
- 21 section 201B-2.5;



1        (22) By the Hawaii employer-union health benefits trust  
2        fund, as provided in section 87A-9;

3        ~~[(22)]~~ (23) By the division of financial institutions for any  
4        action involving the mortgage loan recovery fund; or

5        ~~[(23)]~~ (24) By a department, in the event the attorney  
6        general, for reasons deemed by the attorney general to  
7        be good and sufficient, declines to employ or retain  
8        an attorney for a department; provided that the  
9        governor thereupon waives the provision of this  
10       section."

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

13       **§87A-5 Composition of board.** (a) The board of trustees  
14       of the employer-union health benefits trust fund shall consist  
15       of ~~[ten]~~ trustees appointed ~~[by the governor]~~ in accordance with  
16       the following procedure:

17       (1) ~~[Five]~~ Six trustees ~~[, one of whom shall represent~~  
18       ~~retirees, to]~~ shall represent employee-beneficiaries  
19       and ~~[to]~~ be selected as follows:

20       ~~[(A) Three trustees shall be appointed from a list of~~  
21       ~~two nominees per trustee selected by each of the~~  
22       ~~three exclusive representative organizations that~~



- 1                   ~~have the largest number of employee-~~  
2                   ~~beneficiaries;~~
- 3           ~~(B) One trustee shall be appointed from a list of two~~  
4                   ~~nominees selected by mutual agreement of the~~  
5                   ~~remaining exclusive employee representative~~  
6                   ~~organizations; and~~
- 7           ~~(C) One trustee representing retirees shall be~~  
8                   ~~appointed from a list of two nominees selected by~~  
9                   ~~mutual agreement of all eligible exclusive~~  
10                  ~~representatives; and~~
- 11   ~~(2) Five trustees to represent public employers.]~~
- 12           (A) One trustee shall be appointed by the exclusive  
13                   bargaining representative for bargaining units  
14                   (2), (3), (4), (6), (8), (9), and (13);
- 15           (B) One trustee shall be appointed by the exclusive  
16                   bargaining representative for bargaining unit  
17                   (5);
- 18           (C) One trustee shall be appointed by the exclusive  
19                   bargaining representative for bargaining unit  
20                   (7);



1           (D) One trustee shall be appointed by the exclusive  
2           bargaining representative for bargaining units  
3           (1) and (10);

4           (E) One trustee shall be appointed by the exclusive  
5           bargaining representative for bargaining unit  
6           (11); and

7           (F) One trustee shall be appointed by the exclusive  
8           bargaining representative for bargaining unit  
9           (12);

10           provided that all trustees shall serve at the pleasure  
11           of the appointing exclusive bargaining representative;  
12           and

13           (2) Six trustees, five to represent public employers and  
14           one to represent retiree beneficiaries, shall be  
15           selected as follows:

16           (A) One trustee shall be appointed by the governor to  
17           represent the State of Hawaii administration;

18           (B) One trustee shall be nominated by the university  
19           of Hawaii board of regents and appointed by the  
20           governor;

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



1           (D) One trustee shall be appointed by the mayor of  
2           the city and county of Honolulu;

3           (E) One trustee shall be appointed by the concurrence  
4           of at least two of the mayors from the counties  
5           of Hawaii, Maui, or Kauai; provided that the  
6           mayor of the one remaining county shall appoint  
7           an alternate trustee who may act as a trustee in  
8           all matters under this chapter in the absence of  
9           the county regular trustee; and

10          (F) One trustee shall be appointed by the governor to  
11          represent retiree-beneficiaries;  
12          provided that all trustees shall serve at the pleasure  
13          of the appointing authority.

14          (b) If an exclusive bargaining representative negotiates a  
15          specific contribution to apply to only that bargaining unit,  
16          that unit shall have a sub-board of trustees to administer that  
17          exclusive bargaining unit's contributions and benefits. The  
18          benefits for the bargaining unit, including the type and level,  
19          shall be determined by the sub-board of trustees or established  
20          pursuant to the collective bargaining agreement. There shall be  
21          two trustees appointed by the employer and two trustees



1 appointed by the exclusive bargaining representative to the  
2 sub-board.

3 (c) Section 26-34 shall not apply to board member  
4 selection and terms. Notwithstanding any other provision of  
5 this section, no exclusive representative of a bargaining unit  
6 that sponsors or participates in a voluntary employee  
7 beneficiary association shall be eligible to select nominees or  
8 to be represented by a trustee on the board.

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

11 SECTION 4. Section 87A-6, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "~~§87A-6 Term of a trustee; vacancy. [The term of office~~  
14 ~~of each trustee shall be four years; provided that a trustee may~~  
15 ~~be reappointed for one additional consecutive four year term.~~

16 ~~A vacancy on the board shall be filled in the same manner~~  
17 ~~as the trustee who vacated that position was nominated or~~  
18 ~~appointed; provided that the criteria used for nominating or~~  
19 ~~appointing the successor shall be the same criteria used for~~  
20 ~~nominating or appointing the person's predecessor; provided~~  
21 ~~further that vacancies on the board for each trustee position~~  
22 ~~representing retirees and employee beneficiaries appointed under~~





1 ~~section 87A-5(1)(A) and (B) shall be filled by appointment of~~  
2 ~~the governor as follows:~~

3 ~~(1) If a vacancy occurs in one of the trustee positions~~  
4 ~~described in section 87A-5(1)(A), then the vacancy~~  
5 ~~shall be appointed from a list of two nominees~~  
6 ~~submitted by the exclusive employee representative~~  
7 ~~from among the three largest exclusive employee~~  
8 ~~representatives that does not have a trustee among the~~  
9 ~~three trustee positions;~~

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

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

20 ~~If by the end of a trustee's term the trustee is not~~  
21 ~~reappointed or the trustee's successor is not appointed, the~~  
22 ~~trustee shall serve until the trustee's successor is appointed.]~~



1 The term of office of each trustee shall be at the pleasure of  
2 the nominating or appointing authority. If the appointing  
3 authority for an employer or retiree-beneficiary trustee fails  
4 to appoint an employer trustee or a retiree-beneficiary trustee  
5 to fill a vacant position, the chief justice of the supreme  
6 court shall make the appointment upon petition by two or more  
7 employee-beneficiary trustees. If the appointing authority for  
8 an employee-beneficiary trustee fails to appoint an employee-  
9 beneficiary trustee to fill a vacant position, the chief justice  
10 of the supreme court shall make the appointment upon petition by  
11 two or more employer trustees or retiree-beneficiary trustees."

12 SECTION 5. Section 87A-9, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~+~~§87A-9~~+~~] Legal adviser. The [attorney general shall]  
15 board may appoint or retain by contract an attorney who is  
16 independent of the attorney general to serve as legal adviser to  
17 the board and [shall] provide legal representation for the  
18 Hawaii employer-union health benefits trust fund. The legal  
19 adviser shall have Employee Retirement and Income Security Act  
20 employee benefits experience, either from the private or public  
21 sector."



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

3 " ~~[+]§87A-11[+]~~ Quorum; board actions; voting. (a) ~~[Six]~~  
4 Eight trustees, ~~[three]~~ four of whom represent the public  
5 employer and ~~[three]~~ retiree beneficiaries and four of whom  
6 represent employee-beneficiaries, shall constitute a quorum for  
7 the transaction of business.

8 (b) Trustees representing the public employers shall  
9 collectively have one vote. Trustees representing the employee-  
10 beneficiaries shall collectively have one vote.

11 For any vote of the trustees representing the public  
12 employers and retiree beneficiaries to be valid, ~~[three]~~ four of  
13 these trustees must concur to cast such a vote. In the absence  
14 of ~~[such]~~ concurrence, the trustees representing the public  
15 employers shall be deemed to have abstained from voting.

16 For any vote of the trustees representing the employee-  
17 beneficiaries to be valid, ~~[three]~~ four of these trustees must  
18 concur to cast such a vote. In the absence of ~~[such]~~  
19 concurrence, the trustees representing the employee-  
20 beneficiaries shall be deemed to have abstained from voting.

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



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

6 SECTION 7. Section 87A-15, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "~~[§]§87A-15 [§]~~ Administration of the fund. The board  
9 shall administer and carry out the purpose of the fund. Health  
10 and other benefit plans shall be provided [~~at a cost affordable~~  
11 ~~to both the public employers and the public employees.~~] as  
12 follows:

- 13 (1) For collective bargaining units, based on the  
14 collectively bargained contributions from both the  
15 employers and the employees;  
16 (2) For retirees, according to an appropriation by the  
17 legislature and the respective counties; and  
18 (3) For all other eligible beneficiaries, based on the  
19 contribution from both the employer and employees."

20 SECTION 8. Section 87A-30, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§87A-30 Hawaii employer-union health benefits trust fund;  
2 establishment. There is established outside the state treasury,  
3 a trust fund to be known as the "Hawaii Employer-Union Health  
4 Benefits Trust Fund". The fund shall consist of contributions,  
5 interest, income, dividends, refunds, rate credits, and other  
6 returns. It is hereby declared that any and all sums  
7 contributed or paid from any source to the fund created by this  
8 part, and all assets of the fund including any and all interest  
9 and earnings on the same, are and shall be held in trust by the  
10 board for the exclusive use and benefit of the employee-  
11 beneficiaries and dependent-beneficiaries and shall not be  
12 subject to appropriation for any other purpose whatsoever. The  
13 fund shall be under the control of the board of trustees and  
14 placed under the department of [~~budget and finance~~] human  
15 resources development for administrative purposes."

16           SECTION 9. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18           SECTION 10. This Act shall take effect on July 1, 2050.



**Report Title:**

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

**Description:**

Amends the appointment 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. Effective 7/1/2050. (SD2)

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