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# A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 PART I

2 SECTION 1. The legislature finds that the State is facing  
3 a potential fiscal crisis due to unfunded liabilities for public  
4 employee health benefits. Currently, the unfunded liabilities  
5 for the employer-union health benefits trust fund is between  
6 \$15,000,000,000 and \$17,000,000,000. These unfunded liabilities  
7 can potentially drive the State into bankruptcy. To pay down  
8 this liability would require the State to put down \$500,000,000  
9 per year for the next thirty years. In 2001, the total amount  
10 of premiums for public employee health benefits was  
11 approximately \$218,000,000. Currently, the total amount of  
12 premiums for public employee health benefits is approximately  
13 \$760,000,000 and the amount is increasing yearly. In order to  
14 prevent bankruptcy, protect the State's bond rating, and protect  
15 the State's reputation with investors, proactive measures to  
16 deal with the unfunded liabilities need to occur.

17 Recently, other states have attempted to address their  
18 unfunded liability concerns. Wisconsin passed legislation to



1 curtail collective bargaining rights of public employees and is  
2 currently in a legal battle over the legislation. California  
3 decreased public-sector employee pensions and increased employee  
4 contributions to pension funds. In Hawaii, common proposed  
5 solutions include an increase in the general excise tax, a  
6 decrease in health benefits, or an increase in employee  
7 contributions to the employer-union health benefits trust fund.  
8 The easiest way to address the unfunded liabilities for public  
9 employee health benefits is to increase the general excise tax  
10 by over one per cent. However, an increase of the general  
11 excise tax will essentially place the burden of funding on the  
12 private sector and the State at large. Further, a decrease in  
13 health benefits or an increase in employee contribution will not  
14 be acceptable because public employees deserve to maintain the  
15 benefits they have been promised.

16 The State needs a more affordable and less painful  
17 solution. Therefore, the legislature finds that it is in the  
18 best interest of the State to establish a captive insurance  
19 company that contains the provisions of the current Hawaii  
20 employer-union health benefits trust fund (EUTF) in a captive  
21 insurance company to effectively manage the administration and  
22 financing of the current and potential future employee health



1 benefit obligations of the State and the counties.  
2 Subsequently, a member of the counties shall be appointed to the  
3 board of the captive insurance company to represent the  
4 significant number of county public employees. The captive  
5 insurance company will not compete with the private sector  
6 because it will only manage the administration and financing of  
7 the current and potential future employee health benefit  
8 obligations of the State and the counties. Further, a captive  
9 insurance company will address the necessary premium  
10 contributions for public employee health benefits because there  
11 would be a commitment from the board of directors, composed of  
12 members from the public employers and employees, to fund the  
13 employees' health benefits going forward. This would improve  
14 the financial well being of the State by, among other things:

- 15 (1) Reducing operating costs by eliminating agents'  
16 commissions, insurer profit margins, and stockholder  
17 dividends;
- 18 (2) Retaining investment income and underwriting profits;
- 19 (3) Establishing reserves to pre-fund the unfunded public  
20 employee health benefit liabilities;
- 21 (4) Establishing a board for transparency purposes so that  
22 the public can be informed and involved;



- 1           (5) Contracting out health plans using the request for
- 2                   proposal procedure under the Hawaii public procurement
- 3                   code;
- 4           (6) Increasing the probability of price stability;
- 5           (7) Allowing the State to deal directly with reinsurers
- 6                   because a captive is a licensed insurer and typical
- 7                   insureds can only approach the wholesale market if
- 8                   they own an insurance company; and
- 9           (8) Establishing a reserve account to accumulate ten per
- 10                   cent of the unfunded liabilities, which will have the
- 11                   effect of fully funding the liabilities.

12           The goal of the captive insurance company is to slow the

13 growth of unfunded liabilities for public employee health

14 benefits, stabilize the liabilities, reduce the unfunded

15 liabilities, and restore the confidence of the investing public.

16 Therefore, the legislature finds that the understanding and

17 support of the people of Hawaii is necessary to prevent a fiscal

18 crisis that could ultimately bankrupt the State. The State must

19 take control of its destiny because its fiscal survival is at

20 stake.

21           Accordingly, the purpose of this Act is to authorize the

22 State to form a captive insurance company to more effectively



1 manage the administration and financing of the current and  
2 potential future employee health benefit obligations of the  
3 State and county governments.

4 SECTION 2. The Hawaii Revised Statutes, is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 "CHAPTER

8 HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND CAPTIVE

9 INSURANCE COMPANY

10 ARTICLE 1: GENERAL PROVISIONS

11 § -1:101 Establishment of the Hawaii employer-union  
12 health benefits trust fund captive insurance company. (a)

13 There shall be a captive insurance company, established pursuant  
14 to article 19 of chapter 431, to be known as the "Hawaii  
15 Employer-Union Health Benefits Trust Fund Captive Insurance  
16 Company".

17 (b) The captive insurance company shall be funded by  
18 surplus contributions, premiums, interest and investment income,  
19 refunds, rate credits, legislative initiatives, and other  
20 returns, and shall consist of a board and an administrator.

21 (c) The captive insurance company shall be under the  
22 control of the board pursuant to part III of article 2.



1 (d) The Hawaii employer-union health benefits trust fund  
2 captive insurance company shall be exempt from all taxes and  
3 fees levied by the State on other insurers.

4 § -1:102 Purposes. (a) The primary purpose of the  
5 captive insurance company shall be to:

6 (1) Provide its various subscribers with an effective  
7 means of financing and managing their current and  
8 potential future liabilities arising from contractual  
9 and or other obligations to provide health insurance,  
10 group life insurance, and other benefits to its  
11 respective employees; and

12 (2) Provide other insurance coverage and other risk  
13 financing plans as may be determined by the board.

14 (b) The captive insurance company may implement other  
15 plans or programs as may be allowed, pursuant to article 19 of  
16 chapter 431, for the benefit of the subscribers.

17 § -1:103 Definitions. For the purposes of this chapter:

18 "Administrator" means the administrator of the Hawaii  
19 employer-union health benefits trust fund captive insurance  
20 company appointed by the board or the administrator's duly  
21 authorized representative.

1 "Board" means the board of trustees of the Hawaii employer-  
2 union health benefits trust fund captive insurance company.

3 "Captive insurance company" means the Hawaii employer-union  
4 health benefits trust fund captive insurance company described  
5 in section -1:101.

6 "Carrier" means a voluntary association, corporation,  
7 partnership, or organization engaged in providing, paying for,  
8 arranging for, or reimbursing the cost of health benefits or  
9 long-term care benefits under group insurance contracts.

10 "Commissioner" means the insurance commissioner of the  
11 State of Hawaii.

12 "Contribution" means monetary payments made to the fund or  
13 reserve account by the State, the counties, an employee-  
14 beneficiary, or a qualified-beneficiary.

15 "County" means the counties of Hawaii, Kauai, and Maui and  
16 the city and county of Honolulu, including their respective  
17 boards of water supply and other quasi-independent boards,  
18 commissions, and agencies.

19 "Credited service" means service as an officer or employee  
20 paid by the State or county, service during the period of leave  
21 of absence or exchange if the individual is paid by the State or  
22 county during the leave of absence or exchange, and service



1 during the period of unpaid leave of absence or exchange if the  
2 individual is engaged in the performance of a governmental  
3 function or if the unpaid leave of absence is an approved leave  
4 of absence for professional improvement.

5 "Dependent-beneficiary" means an employee-beneficiary's:

6 (1) Spouse;

7 (2) Unmarried child deemed eligible by the board,  
8 including a legally adopted child, stepchild, foster  
9 child, or recognized natural child who lives with the  
10 employee-beneficiary; and

11 (3) Unmarried child regardless of age who is incapable of  
12 self-support because of a mental or physical  
13 incapacity, which existed prior to the unmarried  
14 child's reaching the age of nineteen years.

15 "Employee" means an employee or officer of the State,  
16 county, or legislature,

17 (1) Including:

18 (A) An elective officer;

19 (B) An officer or employee under an authorized leave  
20 of absence;

21 (C) An employee of the Hawaii national guard although  
22 paid from federal funds;





1 (D) A retired member of the employees' retirement  
2 system; the county pension system; or the police,  
3 firefighters, or bandsmen pension system of the  
4 State or a county;

5 (E) A salaried and full-time member of a board,  
6 commission, or agency appointed by the governor  
7 or the mayor of a county; and

8 (F) A person employed by contract for a period not  
9 exceeding one year, where the director of human  
10 resources development, personnel services, or  
11 civil service has certified that the service is  
12 essential or needed in the public interest and  
13 that, because of circumstances surrounding its  
14 fulfillment, personnel to perform the service  
15 cannot be obtained through normal civil service  
16 recruitment procedures,

17 (2) But excluding:

18 (A) A designated beneficiary of a retired member of  
19 the employees' retirement system; a county  
20 pension system; or a police, firefighters, or  
21 bandsmen pension system of the State or a county;



1 (B) Except as allowed under paragraph (1)(F), a  
2 person employed temporarily on a fee or contract  
3 basis; and

4 (C) A part-time, temporary, and seasonal or casual  
5 employee.

6 "Employee-beneficiary" means:

7 (1) An employee;

8 (2) The beneficiary of an employee who was killed in the  
9 performance of the employee's duty;

10 (3) An employee who retired prior to 1961;

11 (4) The beneficiary of a retired member of the employees'  
12 retirement system; a county pension system; or a  
13 police, firefighters, or bandsmen pension system of  
14 the State or a county, upon the death of the retired  
15 member;

16 (5) The surviving child of a deceased retired employee, if  
17 the child is unmarried and under the age of nineteen;  
18 or

19 (6) The surviving spouse of a deceased retired employee,  
20 if the surviving spouse does not subsequently remarry;

21 provided that the employee, the employee's beneficiary, or the  
22 beneficiary of the deceased retired employee is deemed eligible



1 by the board to participate in a health benefits plan or long-  
2 term care benefits plan under this chapter.

3 "Employer" means the State; the judiciary; the respective  
4 counties of Hawaii, Maui, Kauai, and the city and county of  
5 Honolulu; the department of education; the University of Hawaii;  
6 the Honolulu authority for rapid transportation, and any  
7 instrumentality of the State or its political subdivisions  
8 except the Honolulu authority for rapid transportation

9 "Fund" means the Hawaii employer-union health benefits  
10 trust fund captive insurance company fund pursuant to part I of  
11 article 3.

12 "Health benefits plan" means:

13 (1) A group insurance contract or service agreement that  
14 may include medical, hospital, surgical, prescribed  
15 drugs, vision, and dental services, in which a carrier  
16 agrees to provide, pay for, arrange for, or reimburse  
17 the cost of the services as determined by the board;

18 or

19 (2) A similar schedule of benefits established by the  
20 board and provided through the fund on a self-insured  
21 basis.

22 "Long-term care benefits plan" means:



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

5 (2) A similar schedule of benefits established by the  
6 board and provided through the fund on a self-insured  
7 basis.

8 "Minimum capital and surplus account" means the Hawaii  
9 employer-union health benefits trust fund captive insurance  
10 company minimum capital and surplus account pursuant to part III  
11 of article 3.

12 "Part-time, temporary, and seasonal or casual employee"  
13 means a person employed for fewer than three months or whose  
14 employment is less than one-half of a full-time equivalent  
15 position.

16 "Periodic charge" means the periodic payment by the board  
17 to a carrier for any health benefits plan or long-term care  
18 benefits plan.

19 "Qualified-beneficiary" means, for purposes of the long-  
20 term care benefits plan, a former employee or an employee who is  
21 not eligible for benefits due to a reduction in work hours,  
22 including the spouse, divorced spouse, parents, grandparents,



1 in-law parents, and in-law grandparents of an employee or  
2 retiree; provided that the beneficiary was enrolled in the plan  
3 before the employee or former employee became ineligible for  
4 benefits.

5 "Reserve account" means the Hawaii employer-union health  
6 benefits trust fund captive insurance company reserve account.

7 "State agency" includes the office of Hawaiian affairs.

8 "Trustee" means a trustee of the board of the Hawaii  
9 employer-union health benefits trust fund captive insurance  
10 company fund, as described in part II of article 2.

11 **§ -1:104 Conflicts with insurance code.** Where the  
12 provisions of this chapter and those of chapter 431 conflict,  
13 the provisions of chapter 431 are controlling.

14 **§ -1:105 Exemptions.** (a) The board and the  
15 administrator shall be exempt:

- 16 (1) From chapters 37, 46, 76, 78, 92, and 235; and  
17 (2) From any requirement of law for competitive bidding  
18 for agreements or contracts for goods or services,  
19 including lease and sublease agreements.

20 (b) The board shall prepare reports as required by section  
21 37-47, but shall be otherwise exempt from the requirements of  
22 chapter 37.



1       **ARTICLE 2: ADMINISTRATION OF THE CAPTIVE INSURANCE COMPANY**

2       **PART I: ADMINISTRATION OF THE CAPTIVE INSURANCE COMPANY**

3                               **GENERALLY**

4       **§ -2:101 Administration of the captive insurance**  
5 **company.** (a) The board shall be the governing body of the  
6 captive insurance company pursuant to part III.

7               (b) The administrator shall be the administrator of the  
8 captive insurance company pursuant to part III and shall be  
9 appointed by the board.

10       **§ -2:102 Fiscal year.** The captive insurance company's  
11 accounting shall be conducted on a fiscal year beginning July 1  
12 of each year and ending the following June 30.

13       **§ -2:103 Reports to the legislature.** The board shall  
14 prepare reports in accordance with the requirements of section  
15 37-47, but shall be otherwise exempt from the requirements of  
16 chapter 37.

17                               **PART II: THE BOARD**

18       **§ -2:201 Composition of board.** The board of trustees of  
19 the Hawaii employer-union health benefits trust fund captive  
20 insurance company shall consist of eleven trustees appointed by  
21 the governor in accordance with the following procedure:



1 (1) Five trustees, one of whom shall represent retirees,  
2 to represent employee-beneficiaries, to be appointed  
3 as follows:

4 (A) Three trustees shall be appointed from a list of  
5 two nominees per trustee selected by each of the  
6 three exclusive representatives that have the  
7 largest number of employee-beneficiaries;

8 (B) One trustee shall be appointed from a list of two  
9 nominees selected by mutual agreement of the  
10 remaining exclusive representatives; and

11 (C) One trustee representing retirees shall be  
12 appointed from a list of two nominees selected by  
13 mutual agreement of all eligible exclusive  
14 representatives; and

15 (2) Five trustees to represent public employers; and

16 (3) One trustee to represent the counties.

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



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

3 § -2:202 Term of a trustee; vacancy. The term of office  
4 of each trustee shall be four years; provided that a trustee may  
5 be reappointed for one additional consecutive four-year term.

6 A vacancy on the board shall be filled in the same manner  
7 as the trustee who vacated that position was nominated and  
8 appointed; provided that the criteria used for nominating and  
9 appointing the successor shall be the same criteria used for  
10 nominating and appointing the trustee who vacated the position;  
11 provided further that vacancies on the board for each trustee  
12 position representing retirees and employee-beneficiaries  
13 appointed under section -2:201(1)(A) and (B), or (C) shall be  
14 filled by appointment of the governor as follows:

- 15 (1) If a vacancy occurs in one of the trustee positions  
16 described in section -2:201(1)(A), then the vacancy  
17 shall be filled by appointment from a list of two  
18 nominees submitted by the exclusive representative  
19 from among the three largest exclusive employee  
20 representatives that does not have a trustee among the  
21 three trustee positions;





1 (2) If a vacancy occurs in a trustee position described in  
2 section -2:201(1)(B), then the vacancy shall be  
3 filled by appointment from a list of two nominees  
4 submitted by mutual agreement of the exclusive  
5 employee representatives described in section  
6 -2:201(1)(B); and

7 (3) If a vacancy occurs in the retiree position described  
8 in section -2:201(1)(C), then the vacancy shall be  
9 filled by appointment from a list of two nominees  
10 submitted by mutual agreement of all eligible  
11 exclusive employee representatives.

12 If by the end of a trustee's term the trustee is not  
13 reappointed or the trustee's successor is not appointed, the  
14 trustee shall serve until the trustee's successor is appointed.

15 **§ -2:203 Decisions of board binding.** The decisions of  
16 the board shall be binding upon all of the subscribers except  
17 where applicable law or rules adopted by the captive insurance  
18 company requires a vote by all the subscribers.

19 **§ -2:204 Chair, vice-chair, and secretary-treasurer.**

20 The trustees shall elect from among themselves a chair, a vice-  
21 chair, and a secretary-treasurer.



1           **§ -2:205 Compensation and expenses.** Each trustee shall  
2 serve without compensation, but the trustees may be reimbursed  
3 from the fund for any reasonable expenses incurred in carrying  
4 out the purposes of the fund.

5           **§ -2:206 Meetings; notice.** Meetings may be scheduled,  
6 and notice of meetings shall be provided as follows:

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

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

14          **§ -2:207 Quorum; board actions; voting.** (a) Seven  
15 trustees, three of whom represent public employers, three of  
16 whom represent employee-beneficiaries, and one who represents  
17 the counties shall constitute a quorum for the transaction of  
18 business.

19          (b) Trustees representing public employers shall  
20 collectively have one vote. Trustees representing employee-  
21 beneficiaries shall collectively have one vote. The trustee  
22 representing the counties shall have one vote.



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

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

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

13 (c) Any action taken by the board shall be by the  
14 concurrence of at least two votes. In the event of a tie vote  
15 on any motion, the motion shall fail. Upon the concurrence of  
16 six trustees, the board shall participate in dispute resolution.

17 **§ -2:208 Records and minutes.** The board shall keep  
18 records and minutes of all meetings of the board.

19 **§ -2:209 Legal advisor.** The attorney general shall  
20 serve as legal advisor to the board and shall provide legal  
21 representation for the Hawaii employer-union health benefits  
22 trust fund captive insurance company.



**PART III: BOARD POWERS AND DUTIES**

**§ -2:301 Powers and duties of the board.** The board shall:

- (1) Establish a reciprocal captive insurance company pursuant to article 19 of chapter 431, and the provisions of this chapter to administer and carryout the purposes of this chapter;
- (2) Appoint an administrator who shall be placed within the department of budget and finance for administrative purposes to carry out the day-to-day administration of the fund pursuant to part I of article III and captive insurance company pursuant to part I;
- (3) Supervise the finances of the captive insurance company;
- (4) Supervise the captive insurance company's operations to assure conformity with the insurance and reinsurance policies issued through the captive insurance company and with the standards established by this chapter;



- 1 (5) Procure the audit of accounts and records of the  
2 captive insurance company, at the captive insurance  
3 company's expense;
- 4 (6) Adopt rules as may be necessary for the purpose of  
5 this chapter pursuant to chapter 91;
- 6 (7) Approve the selection of the third party  
7 administrators to which certain duties of the  
8 administrator may be delegated; and
- 9 (8) Have such additional powers and functions as provided  
10 by the power of attorney executed by the subscribers  
11 or rules adopted by the captive insurance company.

12 **§ -2:302 Administration of the fund.** The board shall  
13 administer and carry out the purpose of the fund established  
14 pursuant to section -3:101. Health and other benefits plans  
15 shall be provided at a cost affordable to both the public  
16 employers and the public employees.

17 **§ -2:303 Health benefits plan; carriers.** (a) The board  
18 shall establish the health benefits plan or plans, which shall  
19 be exempt from the minimum group requirements of chapter 431.

20 (b) The board may contract for health benefits plans or  
21 provide health benefits through a noninsured schedule of  
22 benefits.



1           **§ -2:304 Group life insurance benefits or group life**  
2 **insurance program.** The board may provide benefits under a group  
3 life insurance benefits program or group life insurance program  
4 to employees.

5           **§ -2:305 Long-term care benefits plan; carrier or third-**  
6 **party administrator.** (a) The board may establish a long-term  
7 care benefits plan or plans for employee-beneficiaries; the  
8 spouses, parents, grandparents, in-law parents, and in-law  
9 grandparents of employee-beneficiaries; and qualified-  
10 beneficiaries. The plan or plans shall be at no cost to  
11 employers and shall comply with article 10H of chapter 431.

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

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

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

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

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



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

4 § -2:306 Plans for part-time, temporary, and seasonal or  
5 casual employees. (a) The board may offer medical, hospital,  
6 or surgical benefits plans to part-time, temporary, and seasonal  
7 or casual employees at no cost to the employers. The board may  
8 determine eligibility for part-time, temporary, and seasonal or  
9 casual employees by rules exempt from chapter 91 as provided in  
10 section -2:312.

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

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



1 the board's designated carriers. The monthly contributions may  
2 include the carrier's administrative costs.

3       **§ -2:307 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           **§ -2:308 Benefits plan information and enrollment. (a)**

2 The board shall make information summarizing approved benefits  
3 plans available to each employee-beneficiary. The information  
4 shall, to the extent reasonably possible, be distributed to each  
5 employee-beneficiary at the same time and in the same manner.

6           (b) The board shall establish conditions and procedures  
7 for benefits plan enrollment.

8           **§ -2:309 Health benefits plan supplemental to medicare.**

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

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

21           (2) The State, through the department of budget and  
22 finance, and the counties, through their respective



1 departments of finance, shall pay to the fund a  
2 contribution equal to an amount not less than the  
3 medicare part B premium, for each of the following who  
4 are enrolled in the medicare part B medical insurance  
5 plan: (A) an employee-beneficiary who is a retired  
6 employee, (B) an employee-beneficiary's spouse while  
7 the employee-beneficiary is living, and (C) an  
8 employee-beneficiary's spouse, after the death of the  
9 employee-beneficiary, if the spouse qualifies as an  
10 employee-beneficiary. For purposes of this section, a  
11 "retired employee" means retired members of the  
12 employees' retirement system; county pension system;  
13 or a police, firefighters, or bandsmen pension system  
14 of the State or a county as set forth in chapter 88.  
15 If the amount reimbursed by the fund under this  
16 section is less than the actual cost of the medicare  
17 part B medical insurance plan due to an increase in  
18 the medicare part B medical insurance plan rate, the  
19 fund shall reimburse each employee-beneficiary and  
20 employee-beneficiary's spouse for the cost increase  
21 within 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) The benefits available under this plan, when combined  
9 with benefits available under medicare or any other  
10 coverage or plan to which this plan is subordinate  
11 under the National Association of Insurance  
12 Commissioners' coordination of benefit rules, shall  
13 approximate the benefits that would be provided to a  
14 similarly situated employee-beneficiary not eligible  
15 for medicare;

16 (4) All employee-beneficiaries or dependent-beneficiaries  
17 who are eligible to enroll in the medicare part B  
18 medical insurance plan shall enroll in that plan as a  
19 condition of receiving contributions and participating  
20 in benefits plans under this chapter. This paragraph  
21 shall apply to retired employees, their spouses, and



1 the surviving spouses of deceased retirees and  
2 employees killed in the performance of duty; and  
3 (5) The board shall determine which of the employee-  
4 beneficiaries and dependent-beneficiaries, who are not  
5 enrolled in the medicare part B medical insurance  
6 plan, may participate in the plans offered by the  
7 fund.

8 **§ -2:310 Other powers.** In addition to the power to  
9 administer the fund, the board may:

- 10 (1) Collect, receive, deposit, and withdraw money on  
11 behalf of the fund;
- 12 (2) Invest moneys in the same manner specified in section  
13 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6),  
14 and (7);
- 15 (3) Hold, purchase, sell, assign, transfer, or dispose of  
16 any securities or other investments of the fund, as  
17 well as the proceeds of those investments and any  
18 money belonging to the fund;
- 19 (4) Make payments of periodic charges and pay for  
20 reasonable expenses incurred in carrying out the  
21 purposes of the fund;



- 1           (5) Contract for work to carry out the purpose of this
- 2           chapter, including the performance of financial audits
- 3           of the fund and claims audits of its insurance
- 4           carriers;
- 5           (6) Retain auditors, actuaries, investment firms and
- 6           managers, benefit plan consultants, or other
- 7           professional advisors to carry out the purposes of
- 8           this chapter;
- 9           (7) Establish health benefits plan and long-term care
- 10          benefits plan rates that include administrative and
- 11          other expenses necessary to effectuate the purposes of
- 12          the fund; and
- 13          (8) Require any department, agency, or employee of the
- 14          State or counties to furnish information to the board
- 15          to carry out the purposes of this chapter.
- 16          **§ -2:311 Other duties.** The board shall:
- 17          (1) Authorize charges and payments from the fund only upon
- 18          vouchers countersigned by the chairperson and any
- 19          other person designated by the board;
- 20          (2) Maintain accurate records and accounts of all
- 21          financial transactions of the fund that shall be



1           audited annually and summarized in an annual report to  
2           the governor and legislature;

3           (3) Maintain suitable and adequate records and provide  
4           information requested by State and county public  
5           employers as necessary to carry out the purpose of the  
6           fund;

7           (4) Procure fiduciary liability insurance and error and  
8           omissions coverage for all trustees; and

9           (5) Procure a fidelity bond of a reasonable amount for the  
10          chairperson and any other person authorized to handle  
11          fund moneys.

12          **§ -2:312 Rules; policies, standards, and procedures.**

13          (a) The board may adopt rules for the purposes of this chapter.  
14          Rules shall be adopted without regard to chapter 91. Rulemaking  
15          procedures shall be adopted by the board and shall minimally  
16          provide for:

17               (1) Consultation with employers and affected employee  
18               organizations with regard to proposed rules;

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

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

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



1 (b) The board may also issue policies, standards, and  
2 procedures consistent with its rules.

3 (c) The board may adopt rules, without regard to chapter  
4 91, governing dispute resolution procedures in the event of  
5 impasse in decision-making; provided that the rules shall be  
6 adopted with the concurrence of six trustees.

7 **PART IV: THE ADMINISTRATOR**

8 **§ -2:401 Powers and duties of administrator.** (a) The  
9 administrator shall:

- 10 (1) Enter into captive insurance company reciprocal  
11 insurance or reinsurance contracts on behalf of the  
12 subscribers of the captive insurance company;
- 13 (2) Solicit, receive, and accept or reject applications  
14 for insurance or reinsurance to be issued by the  
15 captive insurance company;
- 16 (3) Investigate and pass upon the desirability of risks  
17 involved in the applications for insurance or  
18 reinsurance;
- 19 (4) Underwrite, classify, rate, and issue policies and  
20 binders of insurance or reinsurance for the captive  
21 insurance company, which are actuarially sound and in  
22 accordance with prudent insurance practices, and



- 1           modify or cancel such policies in accordance with the  
2           terms of those policies;
- 3           (5) Establish and maintain for the captive insurance  
4           company and as the captive insurance company's  
5           property, complete and accurate records of all  
6           policies written by the captive insurance company;
- 7           (6) Collect, receive, and account for all surplus  
8           contributions and premiums paid for insurance issued  
9           or reinsurance assumed, and deposit all of said  
10          surplus and premiums in a bank or banks to the account  
11          of the captive insurance company as soon as  
12          practicable, and pay therefrom the expenses of the  
13          captive insurance company;
- 14          (7) Establish and maintain for the captive insurance  
15          company and as the property of the captive insurance  
16          company, all records required by law and prudent  
17          insurance and accounting practices, and prepare all  
18          reports required by governmental and non-governmental  
19          regulatory and supervisory authorities, including  
20          applicable income tax returns;
- 21          (8) Obtain such reinsurance, or other appropriate risk  
22          financing products as may be dictated by law, prudent





- 1 insurance and business practices, and maintain  
2 necessary records for the captive insurance company in  
3 connection therewith;
- 4 (9) Handle and reserve for insurance claims and losses for  
5 the captive insurance company in accordance with  
6 reasonable standards approved by the board consistent  
7 with generally accepted insurance principles;
- 8 (10) Investigate and defend or settle all losses and claims  
9 under the policies of the captive insurance company,  
10 appoint and engage attorneys to defend against claims,  
11 and promptly recover all reinsurance due on claims  
12 paid;
- 13 (11) Make all delinquent premium installment payments due  
14 from any subscriber to the captive insurance company  
15 by deducting the necessary amounts from any of the  
16 subscriber's accounts or surplus contributions or any  
17 other amounts due the subscriber from the captive  
18 insurance company;
- 19 (12) Arrange for payment from the captive insurance  
20 company's accounts of all expenses of the captive  
21 insurance company operation, including, in addition to  
22 losses, expenses relating to the underwriting, claim



1 management and investment activities of the captive  
2 insurance company;

3 (13) Make available to each public employee-beneficiary  
4 information which will help each public employee-  
5 beneficiary exercise an informed choice among the  
6 approved health benefits plans;

7 (14) Establish conditions under which employee  
8 beneficiaries may transfer enrollment from one health  
9 benefits plan to another; and

10 (16) Do any and all other things necessary to carry out the  
11 foregoing.

12 (b) There shall be no capital or stock in the captive  
13 insurance company. The administrator shall maintain separate,  
14 identifiable accounts for each employer open to inspection  
15 during reasonable business hours. All funds shall be deposited  
16 or invested by the administrator in the administrator's sole  
17 discretion with the administrator acting as trustee.

18 (c) The administrator shall pay out of an employer's  
19 accounts in the captive insurance company, the employers's  
20 proportionate share of any outlay for the payment and adjustment  
21 of losses, attorney fees, costs and expenses of lawsuits,

1 reinsurance and excess insurance, taxes, and insurance  
2 department fees and expenses.

3 (d) All disbursements shall be paid by the administrator  
4 out of captive insurance company accounts, subject to the  
5 approval of the board.

6 § -2:402 **Delegation of duties.** Subject to any notice  
7 requirement or approval under the laws of the State, or to the  
8 extent applicable, of any other jurisdiction, the administrator  
9 may delegate some or all of the administrator's duties hereunder  
10 to an appropriate third party, and may pay compensation and make  
11 reimbursement of cost to such third party for services rendered  
12 on behalf of the captive insurance company, subject to the  
13 approval of the board.

14 § -2:403 **Contributions to reserve account.** The  
15 administrator shall issue a certificate of membership to each  
16 employer in receipt and as evidence for all contributions to the  
17 reserve account pursuant to article III.

18 § -2:404 **Computation of net profits and losses.** On or  
19 before September 15 of each year, the administrator shall have  
20 computed the net profit or loss from the underwriting and  
21 investment activities of the captive insurance company during  
22 the fiscal year immediately preceding, and leave any net profits



1 in the fund. Remaining profits shall be invested in the same  
2 manner specified in section 88-119(1)(A), (1)(B), (1)(C), (2),  
3 (3), (4), (5), (6), and (7).

4       **§ -2:405 Exempt from chapter 92 requirements.**

5 Disclosure of records and meetings of the administrator shall be  
6 exempt from the requirements of chapter 92.

7               **ARTICLE 3: HAWAII EMPLOYER-UNION HEALTH BENEFITS**

8                       **CAPTIVE INSURANCE FUND, RESERVE ACCOUNT, AND**

9                               **MINIMUM CAPITAL AND SURPLUS ACCOUNT**

10           **PART I: HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**

11                               **CAPTIVE INSURANCE COMPANY FUND**

12       **§ -3:101 Establishment of the Hawaii employer-union**

13 **health benefits captive insurance company fund.** There shall be  
14 a Hawaii employer-union health benefits trust fund captive  
15 insurance company fund to be placed within the department of  
16 budget and finance for administrative purposes. The fund shall  
17 consist of contributions, interest, income, dividends, refunds,  
18 rate credits, legislative initiatives, and other returns. It is  
19 hereby declared that any and all sums contributed or paid from  
20 any source to the fund created by this part, and all assets of  
21 the fund including any and all interest and earnings on the  
22 same, are and shall be held in trust by the board for the



1 exclusive use and benefit of the employee-beneficiaries,  
2 dependent-beneficiaries, and qualified beneficiaries and shall  
3 not be subject to appropriation for any other purpose  
4 whatsoever. The fund shall be under the control of the board.

5       **§ -3:102 Trust fund; purpose.** (a) The fund shall be  
6 used to provide employee-beneficiaries and dependent-  
7 beneficiaries with health and other benefit plans, and to pay  
8 administrative and other expenses of the fund. All assets of  
9 the fund are and shall be dedicated to providing health and  
10 other benefits plans to the employee-beneficiaries and  
11 dependent-beneficiaries in accordance with the terms of those  
12 plans and to pay administrative and other expenses of the fund,  
13 and shall be used for no other purposes except for those set  
14 forth in this section.

15       (b) The fund, including any earnings on investments, and  
16 rate credits or reimbursements from any carrier or self-insured  
17 plan and any earning or interest derived therefrom, may be used  
18 to stabilize health and other benefit plan rates; provided that  
19 the approval of the governor and the legislature shall be  
20 necessary to fund administrative and other expenses necessary to  
21 effectuate these purposes.



1 (c) The fund may be used to provide group life insurance  
2 benefits to employees to the extent that contributions are  
3 provided for group life insurance benefits in sections -3:104  
4 and -3:110.

5 (d) The fund may assist the State and the counties to  
6 implement and administer cafeteria plans authorized under Title  
7 26 United States Code section 125, the Internal Revenue Code of  
8 1986, as amended, and section 78-30.

9 (e) At the discretion of the board, some or all of the  
10 fund may be used as a reserve against or to pay the fund's  
11 future costs of providing health and other benefits plans  
12 established under sections -2:309 and -3:110 and any other  
13 benefits plans the board establishes for retired employees and  
14 their beneficiaries. Such funds shall be deposited into the  
15 reserve account established under section -3:201.

16 **§ -3:103 Employer contributions irrevocable.**

17 Notwithstanding any law to the contrary, all of the monthly  
18 contributions that the State and counties make to the fund under  
19 sections -3:104, -3:105, -3:106, -3:107, -3:108,  
20 and -3:109, and all other contributions that the State and  
21 counties may make to the fund, shall be irrevocable; provided  
22 that this shall not preclude the fund from returning



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

4       **§ -3:104 State and county contributions; active**

5 **employees.** (a) The State, through the department of budget and  
6 finance, and the counties, through their respective departments  
7 of finance, shall pay to the fund a monthly contribution equal  
8 to the amount established under chapter 89C or specified in the  
9 applicable public sector collective bargaining agreements,  
10 whichever is appropriate, for each of their respective employee-  
11 beneficiaries and employee-beneficiaries with dependent-  
12 beneficiaries, which shall be used toward the payment of costs  
13 of a health benefits plan; provided that:

14       (1) The monthly contribution shall be a specified dollar  
15 amount;

16       (2) The monthly contribution shall not exceed the actual  
17 cost of a health benefits plan;

18       (3) If both husband and wife are employee-beneficiaries,  
19 the total contribution by the State or the county  
20 shall not exceed the monthly contribution for a family  
21 plan; and



1           (4) If the State or any of the counties establish  
2           cafeteria plans in accordance with Title 26, United  
3           States Code section 125, the Internal Revenue Code of  
4           1986, as amended, and section 78-30, the monthly  
5           contribution for those employee-beneficiaries who  
6           participate in a cafeteria plan shall be made through  
7           the cafeteria plan, and the payments made by the State  
8           or counties shall include their respective  
9           contributions to the fund and their employee-  
10          beneficiary's share of the cost of the employee-  
11          beneficiary's health benefits plan.

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

20          (c) All moneys, including state and county contributions  
21          in the Hawaii employer-union health benefits trust fund shall be  
22          transferred and deposited into the Hawaii employer-union health





1 benefits trust fund captive insurance company fund established  
2 pursuant to this article.

3       **§ -3:105 State and county contributions; retired**  
4 **employees.** (a) Notwithstanding any law to the contrary, this  
5 section shall apply to state and county contributions to the  
6 fund for:

- 7       (1) The dependent-beneficiary of an employee who is killed  
8             in the performance of duty;
- 9       (2) A dependent-beneficiary, upon the death of the  
10            employee-beneficiary, except as provided in section  
11            -3:109;
- 12       (3) An employee-beneficiary who retired after June 30,  
13            1984, due to a disability falling within sections 88-  
14            79 and 88-285;
- 15       (4) An employee-beneficiary who retired before July 1,  
16            1984;
- 17       (5) An employee-beneficiary who:
- 18            (A) Was hired before July 1, 1996;
- 19            (B) Retired after June 30, 1984; and
- 20            (C) Who has ten years or more of credited service,  
21            excluding sick leave;
- 22       (6) An employee-beneficiary who:



- 1 (A) Was hired after June 30, 1996; and
- 2 (B) Retired with twenty-five or more years of
- 3 credited service, excluding sick leave, except as
- 4 provided in section -3:109; and

5 (7) Employees who retired prior to 1961 and their  
6 dependent-beneficiaries.

7 (b) Effective July 1, 2003, there is established a base  
8 monthly contribution for health benefit plans that the State,  
9 through the department of budget and finance, and the counties,  
10 through their respective departments of finance, shall pay to  
11 the fund, up to the following:

- 12 (1) \$218 for each employee-beneficiary enrolled in
- 13 supplemental medicare self plans;
- 14 (2) \$671 for each employee-beneficiary enrolled in
- 15 supplemental medicare family plans;
- 16 (3) \$342 for each employee-beneficiary enrolled in non-
- 17 medicare self plans; and
- 18 (4) \$928 for each employee-beneficiary enrolled in non-
- 19 medicare family plans.

20 The monthly contribution by the State or county shall not  
21 exceed the actual cost of the health benefits plan or plans. If  
22 both husband and wife are employee-beneficiaries, the total



1 contribution by the State or county shall not exceed the monthly  
2 contribution for a supplemental medicare family or non-medicare  
3 family plan, as appropriate.

4 (c) Effective July 1, 2004, there is established a base  
5 monthly contribution for health benefit plans that the State,  
6 through the department of budget and finance, and the counties,  
7 through their respective departments of finance, shall pay to  
8 the fund, up to the following:

- 9 (1) \$254 for each employee-beneficiary enrolled in  
10 supplemental medicare self plans;  
11 (2) \$787 for each employee-beneficiary enrolled in  
12 supplemental medicare family plans;  
13 (3) \$412 for each employee-beneficiary enrolled in non-  
14 medicare self plans; and  
15 (4) \$1,089 for each employee-beneficiary enrolled in non-  
16 medicare family plans.

17 The monthly contribution by the State or county shall not  
18 exceed the actual cost of the health benefit plan or plans and  
19 shall not be required to cover increased benefits above those  
20 initially contracted for by the fund for plan year 2004-2005.  
21 If both husband and wife are employee-beneficiaries, the total  
22 contribution by the State or county shall not exceed the monthly



1 contribution for a supplemental medicare family or non-medicare  
2 family plan, as appropriate.

3 (d) The base composite monthly contribution shall be  
4 adjusted annually, beginning July 1, 2005. The adjusted base  
5 composite monthly contribution for each new plan year (July 1  
6 until June 30) shall be calculated by increasing or decreasing  
7 the base composite monthly contribution in effect through the  
8 end of the previous plan year by the percentage increase or  
9 decrease in the medicare part B premium rate for those years,  
10 which percentage shall be calculated by dividing the medicare  
11 part B premium rate in effect at the beginning of the new plan  
12 year by the rate in effect at the beginning of the previous plan  
13 year.

14 For the plan year beginning July 1, 2005, the adjusted base  
15 monthly contribution shall be computed using the actual  
16 contracted premium rate as of July 1, 2004, for medicare and  
17 non-medicare, self and family health benefits plans with the  
18 highest actual contracted premium rate as of July 1, 2004.

19 As used in this subsection, "medicare part B premium rate"  
20 means the rate published in the Federal Register each year on  
21 November 1 or on the business day closest to November 1 of each  
22 year after the medicare part B premium rate has been established



1 by the Secretary of Health and Human Services and approved by  
2 the United States Congress.

3 (e) The base composite monthly contribution shall be  
4 adjusted annually, beginning January 1, 2013. The adjusted base  
5 composite monthly contribution for each new plan year (January 1  
6 until December 31) shall be calculated by increasing or  
7 decreasing the base composite monthly contribution in effect  
8 through the end of the previous plan year by the percentage  
9 increase or decrease in the medicare part B premium rate for  
10 those years, which percentage shall be calculated by dividing  
11 the medicare part B premium rate in effect at the beginning of  
12 the new plan year by the rate in effect at the beginning of the  
13 previous plan year.

14 For the plan year beginning January 1, 2013, the adjusted  
15 base monthly contribution shall be computed using the base  
16 composite monthly contribution as of July 1, 2012.

17 As used in this subsection, "medicare part B premium rate"  
18 means the rate published in the Federal Register each year on  
19 November 1 or on the business day closest to November 1 of each  
20 year after the medicare part B premium rate has been established  
21 by the United States Secretary of Health and Human Services and  
22 approved by the United States Congress.



1 (f) If the board adopts a rate structure that provides for  
2 other than self and family rates for the health benefit plans,  
3 the base monthly contribution for the rate structure adopted by  
4 the board shall be adjusted to provide the equivalent  
5 underwriting cost as the base monthly contribution that is  
6 provided for in this section.

7 **§ -3:106 State and county contribution; reimbursement**  
8 **for retired employees.** An employee-beneficiary who retires and  
9 relocates outside of the State shall be reimbursed for the  
10 premiums paid by the employee-beneficiary for a personal health  
11 insurance policy; provided that the board shall determine which  
12 employee-beneficiaries and what types of personal health  
13 insurance policies shall be eligible for reimbursement and may  
14 set other conditions that shall be met for the employee-  
15 beneficiary to receive the reimbursements provided under this  
16 section.

17 The reimbursement shall be the lesser of:

- 18 (1) The actual cost of the personal health insurance  
19 policy; or  
20 (2) The amount of the state or county contribution for the  
21 most comparable health benefits plan.



1 Reimbursements shall be paid by the fund on a quarterly  
 2 basis upon the presentation of documentation that the premiums  
 3 for the personal health insurance policy have been paid by the  
 4 employee-beneficiary. This section shall apply to all employee-  
 5 beneficiaries who retire and relocate outside of the State,  
 6 regardless of their date of retirement.

7 **§ -3:107 State and county contributions; retired**  
 8 **employees with fewer than ten years of service.** (a) This  
 9 section shall apply to state and county contributions to the  
 10 fund for employees specified in paragraph (1)(E) of the  
 11 definition of "employee" in section -1:103 who:

- 12 (1) Were hired on or before June 30, 1996; and
- 13 (2) Retired after June 30, 1984, with fewer than ten years  
 14 of credited service, excluding sick leave.

15 (b) The State, through the department of budget and  
 16 finance, and the counties, through their respective departments  
 17 of finance, shall pay to the fund a monthly contribution equal  
 18 to one-half of the base monthly contribution set forth under  
 19 section -3:105(b) for retired employees enrolled in medicare  
 20 or non-medicare health benefits plans. If both husband and wife  
 21 are employee-beneficiaries, the total contribution by the State  
 22 or county shall not exceed the monthly contribution for



1 supplemental medicare family or non-medicare family plan, as  
2 appropriate.

3       **§ -3:108 State and county contributions; employees hired**  
4 **after June 30, 1996, but before July 1, 2001, and retired with**  
5 **fewer than twenty-five years of service.** (a) This section  
6 shall apply to state and county contributions to the fund for  
7 employees who were hired after June 30, 1996, but before July 1,  
8 2001, and who retire with fewer than twenty-five years of  
9 credited service, excluding sick leave; provided that this  
10 section shall not apply to the following employees, for whom  
11 state and county contributions shall be made as provided by  
12 section -3:105:

- 13       (1) An employee hired prior to July 1, 1996, who transfers  
14             employment after June 30, 1996, and who cumulatively  
15             accrues at least ten years of credited service; and  
16       (2) An employee hired prior to July 1, 1996, who has at  
17             least ten years of credited service prior to a break  
18             in service.

19       For the purposes of this section:

20       "Break in service" means to leave state or county  
21 employment for more than ninety calendar days before returning  
22 to state or county employment.





1 "Transfer" means to leave state or county employment and  
2 return to state or county employment within ninety calendar  
3 days.

4 (b) For purposes of this section, if an employee leaves  
5 state or county employment and returns to state or county  
6 employment after June 30, 1996, upon retirement, the employee's  
7 years of service shall be computed in the same manner as set  
8 forth in chapter 88.

9 (c) 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:

12 (1) For retired employees enrolled in medicare or non-  
13 medicare health benefit plans with ten or more years  
14 but fewer than fifteen years of service, a monthly  
15 contribution equal to one-half of the base monthly  
16 contribution set forth under section -3:105(b); and

17 (2) For retired employees enrolled in medicare or non-  
18 medicare health benefit plans with at least fifteen  
19 but fewer than twenty-five years of service, a monthly  
20 contribution of seventy-five per cent of the base  
21 monthly contribution set forth under section  
22 -3:105(b).



1 If both husband and wife are employee-beneficiaries, the total  
2 contribution by the State or county shall not exceed the monthly  
3 contribution for a supplemental medicare family or non-medicare  
4 family plan, as appropriate.

5       **§ -3:109 State and county contributions; employees hired**  
6 **after June 30, 2001, and retired.** (a) This section shall apply  
7 to state and county contributions to the fund for employees  
8 hired after June 30, 2001, and who retired, except that this  
9 section shall not apply to the following employees, for whom  
10 state and county contributions shall be made as provided by  
11 section -3:108:

12       (1) An employee hired after June 30, 1996, and prior to  
13             July 1, 2001, who transfers employment after June 30,  
14             2001, and who cumulatively accrues at least ten years  
15             of credited service; and

16       (2) An employee hired after June 30, 1996, and prior to  
17             July 1, 2001, who has at least ten years of credited  
18             service prior to a break in service.

19       For purposes of this section:

20       "Break in service" means to leave state or county  
21 employment for more than ninety calendar days before returning  
22 to state or county employment.



1 "Transfer" means to leave state or county employment and  
2 return to state or county employment within ninety calendar  
3 days.

4 (b) For purposes of this section, if an employee leaves  
5 state or county employment and returns to state or county  
6 employment after July 1, 2001, upon retirement, the employee's  
7 years of service shall be computed in the same manner as set  
8 forth in chapter 88.

9 (c) 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:

12 (1) For retired employees based on the self plan with ten  
13 or more years but fewer than fifteen years of service,  
14 a monthly contribution equal to one-half of the base  
15 medicare or non-medicare monthly contribution set  
16 forth under section -3:105(b);

17 (2) For retired employees based on the self plan with at  
18 least fifteen but fewer than twenty-five years of  
19 service, a monthly contribution equal to seventy-five  
20 per cent of the base medicare or non-medicare monthly  
21 contribution set forth under section -3:105(b);



1 (3) For retired employees based on the self plan with  
2 twenty-five or more years of service, a monthly  
3 contribution equal to one-hundred per cent of the base  
4 medicare or non-medicare monthly contribution set  
5 forth under section -3:105(b); and

6 (4) One-half of the monthly contributions for the  
7 employee-beneficiary or employee-beneficiary with  
8 dependent-beneficiaries upon the death of the  
9 employee, as defined in paragraph (1)(E) of the  
10 definition of "employee" in section -1:103.

11 If both husband and wife are employee-beneficiaries, the  
12 total contribution by the State or county shall not exceed the  
13 monthly contribution for two supplemental medicare self or non-  
14 medicare self plans, as appropriate.

15 **§ -3:110 Group life insurance benefits plans for retired**  
16 **employees; contributions.** (a) The State, through the  
17 department of budget and finance, and the counties, through  
18 their respective departments of finance, shall pay to the fund a  
19 base monthly contribution as set forth in subsection (b) for  
20 each retired employee enrolled in the fund's group life  
21 insurance benefits plan under section -3:107, -3:108, and  
22 -3:109.



1 (b) Effective July 1, 2003, there is established a base  
2 monthly contribution of \$4.16 for each retired employee enrolled  
3 in a group life insurance plan; provided that the monthly  
4 contribution shall not exceed the actual cost of the group life  
5 insurance benefits plan. The base composite monthly  
6 contribution shall be adjusted annually beginning July 1, 2004.  
7 The adjusted base composite monthly contribution for each new  
8 plan year shall be calculated by increasing or decreasing the  
9 base composite monthly contribution in effect through the end of  
10 the previous plan year by the percentage increase or decrease in  
11 the medicare part B premium rate for those years. The  
12 percentage shall be calculated by dividing the medicare part B  
13 premium rate in effect at the beginning of the new plan year by  
14 the rate in effect through the end of the previous plan year.

15 As used in this subsection, "medicare part B premium rate"  
16 means the rate published in the Federal Register each year on  
17 November 1 or on the business day closest to November 1 of each  
18 year after the medicare part B premium rate has been established  
19 by the Secretary of Health and Human Services and approved by  
20 the United States Congress.

21 **§ -3:111 State and county contributions not considered**  
22 **wages or salary.** Contributions made by the State or the



1 counties under this part shall not be considered wages or salary  
2 of an employee-beneficiary. No employee-beneficiary shall have  
3 any vested right in or be entitled to receive any part of any  
4 contribution made to the fund.

5       **§ -3:112 Reimbursement for state contributions. (a)**

6 All state agencies having control of funds other than the  
7 general fund shall reimburse the State for contributions made by  
8 the State pursuant to sections -3:104, -3:105, -3:106,  
9 -3:107, -3:108, and -3-109 on account of agency  
10 employees whose compensation is paid in whole or part from funds  
11 other than the general fund.

12       (b) All state and county agencies receiving federal funds,  
13 which may be expended for the purpose of replacing the  
14 contribution payable by the State to the fund, shall set aside a  
15 portion of the federal funds sufficient to reimburse the State  
16 for contributions made by the State pursuant to sections  
17 sections -3:104, -3:105, -3:106, -3:107, -3:108,  
18 and -3-109, on account of the employees in the agencies whose  
19 compensation is paid in whole or part from federal funds.

20       **§ -3:113 Employee-beneficiary contributions; health**

21 **benefit plans.** (a) Each employee-beneficiary shall make a  
22 monthly contribution to the fund amounting to the difference



1 between the monthly charge of the health benefits plan selected  
2 by the employee-beneficiary and the contribution made by the  
3 State or county for the employee-beneficiary to the fund.  
4 Nothing in this section shall prohibit any employee-beneficiary  
5 from participating in a cafeteria plan authorized under Title 26  
6 United States Code section 125, Internal Revenue Code of 1986,  
7 as amended, and section 78-30.

8 (b) During the period the health benefits plan selected by  
9 an employee-beneficiary is in effect, the employee-beneficiary,  
10 if allowed by law, shall authorize the employee-beneficiary's  
11 contribution to be withheld and transmitted to the fund monthly  
12 by the comptroller, employees' retirement system, or finance  
13 officer who disburses the employee-beneficiary's compensation,  
14 pension, or retirement pay. If an employee-beneficiary's  
15 contribution to the fund is not withheld and transmitted to the  
16 fund, the employee-beneficiary shall pay the monthly  
17 contribution:

18 (1) In the case of an employee-beneficiary who normally  
19 receives the employee-beneficiary's compensation from  
20 the comptroller or employees' retirement system,  
21 directly to the fund by the first day of each month;  
22 or



1           (2) In the case of all other employee-beneficiaries, to  
2           the respective finance officer from whom the employee-  
3           beneficiary normally receives compensation for  
4           transmittal to the fund by the first day of each  
5           month.

6           (c) Notwithstanding subsection (a), an employee-  
7           beneficiary's monthly contribution to the fund shall include the  
8           amount that would have been the employee-beneficiary's  
9           contribution if the employee-beneficiary had not elected to  
10          participate in the cafeteria plan.

11          §   -3:114   **Employee-beneficiary or qualified-beneficiary**  
12          **contributions; long-term care benefits plan.** (a) During the  
13          period the long-term care benefits plan is in effect, the  
14          employee-beneficiary, if allowed by law, shall authorize the  
15          employee-beneficiary's contribution to be withheld and  
16          transmitted to the fund monthly by the comptroller, employees'  
17          retirement system, or finance officer who disburses the  
18          employee-beneficiary's compensation, pension, or retirement pay.  
19          If an employee-beneficiary's monthly contribution to the fund is  
20          not withheld and transmitted to the fund, the employee-  
21          beneficiary shall pay the monthly contribution directly to the





1 board's designated carrier or third-party administrator as  
2 specified by the board.

3 (b) Qualified-beneficiaries shall pay monthly  
4 contributions directly to the board's designated carrier or  
5 third-party administrator as specified by the board.

6 **PART II: RESERVE ACCOUNT**

7 **§ -3:201 Establishment of Hawaii employer-union health**  
8 **benefits trust fund captive insurance company reserve account.**

9 There is established a Hawaii employer-union health benefits  
10 trust fund captive insurance company reserve account to be  
11 placed within the department of budget and finance for  
12 administrative purposes. The account shall consist of required  
13 employer contributions pursuant to this part and legislative  
14 initiatives. The reserve account shall meet the requirements of  
15 the Government Accounting Standards Board regarding employment  
16 benefits trusts.

17 **§ -3:202 Reserve account; purpose; initial balance. (a)**

18 The reserve account shall be used as a reserve against or to pay  
19 the fund's future costs of providing health and other benefits  
20 plans established under sections -2:309 and -3:111 and any  
21 other benefits plans the board establishes for retired employees  
22 and their beneficiaries.



1 (b) The initial balance, which shall be met within five  
2 years of the effective date of Act , Session Laws of Hawaii  
3 2013, shall total \$1,500,000,000. Each employer shall be  
4 responsible for a proportionate share of the initial balance as  
5 described in section -3:203.

6 § -3:203 **Employer contributions; mandatory.** (a) The  
7 board in its sole discretion shall require each employer to make  
8 an annual contribution to the reserve account established under  
9 section -3:201. The amount of the contribution shall be as  
10 described under subsection (b) and neither the administrator nor  
11 any individual employer shall have the authority to increase the  
12 subscriber's liability as established by this section.

13 (b) Individual employers shall be liable for a  
14 proportional percentage of the initial balance established under  
15 section -3:202 equal to the percentage of total employees the  
16 employer employs as of the effective date of Act , Session  
17 Laws of Hawaii 2013. Any amounts an employer has previously  
18 contributed to any account established as a reserve against or  
19 to pay any future costs of providing health and other benefits  
20 plans shall be deposited to the reserve account and applied as a  
21 credit to such employer's liability under this section. Such  
22 amounts shall be due and payable by the first day of each fiscal



1 year. The administrator shall calculate the total amount of  
2 liability attributable to each employer no later than December  
3 31 of the preceding fiscal year.

4 (c) Employer contributions to the reserve account shall be  
5 irrevocable, all assets of the fund shall be dedicated  
6 exclusively to provide health and other benefits to retirees and  
7 their beneficiaries when there are insufficient moneys to cover  
8 the current claims in the fund and to pre-fund health and other  
9 benefits to retirees and their beneficiaries, except as provided  
10 under section -3:205. Assets of the fund shall not be  
11 subject to appropriation for any other purpose and shall not be  
12 subject to claims by creditors of the employers, the board, or  
13 the administrators. The board's powers under part III of  
14 article II of this chapter shall apply to the reserve account  
15 established under section -3:201.

16 § -3:204 **Additional employer contributions.** At any  
17 point subsequent to the establishment of the initial balance  
18 required in the reserve account pursuant to section -3:202,  
19 that the balance falls below \$1,500,000,000, the board shall  
20 require each individual employer to make additional  
21 contributions to the reserve account in the manner described



1 under section -3:203 until such point that the balance in the  
2 reserve account meets or exceeds the \$1,500,000,000 threshold.

3 § -3:205 **Catastrophic health events.** Notwithstanding  
4 section -3:203, moneys in the reserve account may be expended  
5 to fund claims resulting from a catastrophic health event as  
6 determined by the director of health as provided pursuant to  
7 section -3:203. Such expenditures shall be overseen by the  
8 administrator with the approval of the board.

9 § -3:206 **Other powers.** In addition to the power to  
10 administer the reserve account, the board may:

- 11 (1) Collect, receive, deposit, and withdraw money on  
12 behalf of the account;
- 13 (2) Invest moneys in the same manner specified in section  
14 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6),  
15 and (7);
- 16 (3) Hold, purchase, sell, assign, transfer, or dispose of  
17 any securities or other investments of the fund, as  
18 well as the proceeds of those investments and any  
19 money belonging to the fund;
- 20 (4) Make payments of periodic charges and pay for  
21 reasonable expenses incurred in carrying out the  
22 purposes of the fund;



1 (5) Contract for the performance of financial audits of  
2 the fund and claims audits of its insurance carriers;

3 (6) Retain auditors, actuaries, investment firms and  
4 managers, benefit plan consultants, or other  
5 professional advisors to carry out the purposes of  
6 this chapter;

7 (7) Make payments necessary to cover public employee  
8 health benefit costs when the Hawaii employer-union  
9 health benefits trust fund captive insurance fund does  
10 not have the necessary funds; and

11 (8) Require any department, agency, or employee of the  
12 State or counties to furnish information to the board  
13 to carry out the purposes of this chapter.

14 **§ -3:207 Accumulation of \$1,500,000,000 in funds. (a)**

15 Upon written confirmation from the board that the reserve fund  
16 has secured \$1,500,000,000, in the aggregate the Hawaii  
17 employer-union health benefits trust fund captive insurance  
18 company reserve fund shall end employer contributions until the  
19 balance of the reserve account falls below \$1,500,000,000.

20 (b) When the balance of the net moneys accumulated totals  
21 \$1,500,000,000, the fund may notify the commissioner of that  
22 fact.



1 (c) In the event the balance of the net accumulated moneys  
2 falls below \$1,500,000,000, the board shall require employer  
3 contributions.

4 (d) The Hawaii employer-union health benefits trust fund  
5 captive insurance company reserve account shall be exempt from  
6 all taxes and fees levied by the State on other insurers.

7 **PART III: MINIMUM CAPITAL AND SURPLUS ACCOUNT**

8 **§ -3:301 Establishment of Hawaii employer-union health**  
9 **benefits trust fund captive insurance company minimum capital**  
10 **and surplus account.** There is established a Hawaii employer-  
11 union health benefits trust fund captive insurance company  
12 minimum capital and surplus account to be placed within the  
13 department of budget and finance for administrative purposes.  
14 The account shall consist of required employer contributions  
15 pursuant to this part and legislative initiatives. The minimum  
16 capital and surplus account shall meet the requirements of the  
17 Government Accounting Standards Board regarding employment  
18 benefits trusts.

19 **§ -3:302 Minimum capital and surplus account; purpose.**  
20 **initial balance.** The minimum capital and surplus account shall  
21 be used to hold the minimum capital and surplus amounts  
22 established by the commissioner pursuant to section 431:19-104.



1 The board in its sole discretion shall require each employer to  
2 make a contribution for the initial balance to the minimum  
3 capital and surplus account established under section -3:301.  
4 The amount of the contribution shall be determined by the board;  
5 provided that the total contributions from all of the employers  
6 shall meet the minimum capital and surplus requirements  
7 established by the commissioner pursuant to section 431:19-104.

8       **§ -3:303 Employer contributions; mandatory.** The board  
9 in its sole discretion shall require each employer to make a  
10 contribution to the minimum capital and surplus account  
11 established under section -3:301 in order to meet the minimum  
12 capital and surplus amounts established by the commissioner  
13 pursuant to section 431:19-104. The amount of the contribution  
14 shall be determined by the board; provided that the total  
15 contributions from all of the employers shall enable the minimum  
16 capital and surplus account to meet the minimum capital and  
17 surplus requirements established by the commissioner pursuant to  
18 section 431:19-104. The minimum capital and surplus account  
19 shall be backed by the full faith and credit of the employers.  
20 Assets of the fund shall not be subject to appropriation for any  
21 other purpose and shall not be subject to claims by creditors of  
22 the employers, the board, or the administrators. The board's



1 powers under part III of article II of this chapter shall apply  
2 to the minimum capital and surplus account established under  
3 section -3:301.

4 **§ -3:304 Other powers.** In addition to the power to  
5 administer the minimum capital and surplus account, the board  
6 may:

- 7 (1) Collect, receive, deposit, and withdraw money on  
8 behalf of the account;
- 9 (2) Invest moneys in the same manner specified in section  
10 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6),  
11 and (7);
- 12 (3) Hold, purchase, sell, assign, transfer, or dispose of  
13 any securities or other investments of the fund, as  
14 well as the proceeds of those investments and any  
15 money belonging to the fund;
- 16 (4) Make payments of periodic charges and pay for  
17 reasonable expenses incurred in carrying out the  
18 purposes of the fund;
- 19 (5) Contract for the performance of financial audits of  
20 the fund and claims audits of its insurance carriers;
- 21 (6) Retain auditors, actuaries, investment firms and  
22 managers, benefit plan consultants, or other





1 professional advisors to carry out the purposes of  
2 this chapter;

3 (7) Make payments necessary to cover public employee  
4 health benefit costs when the Hawaii employer-union  
5 health benefits trust fund captive insurance company  
6 fund does not have the necessary funds; and

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

10 **ARTICLE 4: INSURANCE PLANS AND BENEFITS**

11 **§ -4:101 Compliance with state insurance code.** All  
12 insurance plans provided by the captive insurance company shall  
13 comply with the provisions of chapters 431 and 432E."

14 **PART II**

15 **SECTION 3.** Section 88-9, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17 "(d) A retirant may be employed without reenrollment in  
18 the system and suffer no loss or interruption of benefits  
19 provided by the system or under chapter [87A] \_\_\_ if the  
20 retirant is employed:



- 1           (1) As an elective officer pursuant to section 88-42.6(c)
- 2                    or as a member of the legislature pursuant to section
- 3                    88-73(d);
- 4           (2) As a juror or precinct official;
- 5           (3) As a part-time or temporary employee excluded from
- 6                    membership in the system pursuant to section 88-43, as
- 7                    a session employee excluded from membership in the
- 8                    system pursuant to section 88-54.2, as the president
- 9                    and chief executive officer of the Hawaii tourism
- 10                    authority excluded from membership in the system
- 11                    pursuant to section 201B-2, or as any other employee
- 12                    expressly excluded by law from membership in the
- 13                    system; provided that:
- 14                    (A) The retirant was not employed by the State or a
- 15                            county during the six calendar months prior to
- 16                            the first day of reemployment; and
- 17                    (B) No agreement was entered into between the State
- 18                            or a county and the retirant, prior to the
- 19                            retirement of the retirant, for the return to
- 20                            work by the retirant after retirement;



- 1           (4) In a position identified by the appropriate  
2           jurisdiction as a labor shortage or difficult-to-fill  
3           position; provided that:
- 4           (A) The retirant was not employed by the State or a  
5           county during the twelve calendar months prior to  
6           the first day of reemployment;
- 7           (B) No agreement was entered into between the State  
8           or a county and the retirant, prior to the  
9           retirement of the retirant, for the return to  
10          work by the retirant after retirement; and
- 11          (C) Each employer shall contribute to the pension  
12          accumulation fund the required percentage of the  
13          rehired retirant's compensation to amortize the  
14          system's unfunded actuarial accrued liability; or
- 15          (5) As a teacher or an administrator in a teacher shortage  
16          area identified by the department of education or in a  
17          charter school or as a mentor for new classroom  
18          teachers; provided that:
- 19          (A) The retirant was not employed by the State or a  
20          county during the twelve calendar months prior to  
21          the first day of reemployment;



1 (B) No agreement was entered into between the State  
2 or a county and the retirant prior to the  
3 retirement of the retirant, for the return to  
4 work by the retirant after retirement; and

5 (C) The department of education or charter school  
6 shall contribute to the pension accumulation fund  
7 the required percentage of the rehired retirant's  
8 compensation to amortize the system's unfunded  
9 actuarial accrued liability."

10 SECTION 4. Section 88-95, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§88-95 Withholding of dues and insurance premiums.** A  
13 retired member, if the retired member requests in writing, may  
14 have withheld from the retired member's pension, annuity, or  
15 retirement allowance, payments to the Hawaii employer-union  
16 health benefits trust fund captive insurance company fund and  
17 employee organizations for dues and insurance premiums."

18 SECTION 5. Section 88-103.5, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) The employees' retirement system shall:

21 (1) Disclose to the Hawaii employer-union health benefits  
22 trust fund captive insurance company and employee



1 organizations information related to the  
2 administration of pension, annuity, or retirement  
3 allowance deductions, as follows: name, social  
4 security number, and amounts and dates of both  
5 voluntary and mandatory deductions remitted to the  
6 recipient; and

7 (2) Release the records of its retirants and beneficiaries  
8 to the Hawaii employer-union health benefits trust  
9 fund captive insurance company for the disbursement of  
10 payments authorized under section [~~87A-23.~~] \_\_\_\_  
11 -2:309."

12 SECTION 6. Section 89-2, Hawaii Revised Statutes, is  
13 amended by amending the definitions of "collective bargaining"  
14 and "employee organization" to read as follows:

15 "Collective bargaining" means the performance of the  
16 mutual obligations of the public employer and an exclusive  
17 representative to meet at reasonable times, to confer and  
18 negotiate in good faith, and to execute a written agreement with  
19 respect to wages, hours, amounts of contributions by the State  
20 and counties to the Hawaii employer-union health benefits trust  
21 fund captive insurance company fund, and other terms and  
22 conditions of employment, except that by any such obligation



1 neither party shall be compelled to agree to a proposal or be  
2 required to make a concession. For the purposes of this  
3 definition, "wages" includes the number of incremental and  
4 longevity steps, the number of pay ranges, and the movement  
5 between steps within the pay range and between the pay ranges on  
6 a pay schedule under a collective bargaining agreement.

7 "Employee organization" means any organization of any kind  
8 in which public employees participate and which exists for the  
9 primary purpose of dealing with public employers concerning  
10 grievances, labor disputes, wages, hours, amounts of  
11 contributions by the State and counties to the Hawaii employer-  
12 union health benefits trust fund captive insurance company fund,  
13 and other terms and conditions of employment of public  
14 employees."

15 SECTION 7. Section 89-9, Hawaii Revised Statutes, is  
16 amended as follows:

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

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



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

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

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



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

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





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

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

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

20 SECTION 8. Section 89-11, Hawaii Revised Statutes, is  
21 amended by amending subsection (g) to read as follows:



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



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

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



1 SECTION 9. Section 269-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Effective July 1, 2005, the chairperson of the  
4 commission shall be paid a salary set at eighty-seven per cent  
5 of the salary of the director of human resources development,  
6 and each of the other commissioners shall be paid a salary equal  
7 to ninety-five per cent of the chairperson's salary. The  
8 commissioners shall be exempt from chapters 76 and 89 but shall  
9 be members of the state employees retirement system and shall be  
10 eligible to receive the benefits of any state or federal  
11 employee benefit program generally applicable to officers and  
12 employees of the State, including those under chapter [~~87A~~]  
13 \_\_\_\_.

14 The commission is placed within the department of budget  
15 and finance for administrative purposes."

16 SECTION 10. Section 323F-32, Hawaii Revised Statutes, is  
17 amended by amending subsection (g) to read as follows:

18 "(g) Employees of Kahuku hospital shall be exempt from  
19 chapters 76, [~~87A~~]\_\_\_\_, 88, and 89, and shall not be considered  
20 as employees of the State."

21 SECTION 11. Chapter 87A, Hawaii Revised Statutes, is  
22 repealed.



## 1 PART III

2 SECTION 12. All rights, powers, functions, and duties of  
3 the Hawaii employer-union health benefits trust fund are  
4 transferred to the Hawaii employer-union health benefits trust  
5 fund captive insurance company.

6 All employees who occupy civil service positions and whose  
7 functions are transferred to the Hawaii employer-union health  
8 benefits trust fund captive insurance company by this Act shall  
9 retain their civil service status, whether permanent or  
10 temporary. Employees shall be transferred without loss of  
11 salary, sniority (except as prescribed by applicable collective  
12 bargaining agreement), retention points, prior service credit,  
13 any vacation and sick leave credits previously earned, and other  
14 rights, benefits, and privileges, in accordance with state  
15 personnel laws and this Act, provided that the employees possess  
16 the minimum qualifications and public employment requirements  
17 for the class or position to which transferred or appointed, as  
18 applicable, provided further that subsequent changes in status  
19 may be made pursuant to applicable civil service and  
20 compensation laws.

21 Any employee who, prior to this Act, is exempt from civil  
22 service and is transferred as a consequence of this Act, may



1 continue to retain the employee's exempt status, but shall not  
2 be appointed to a civil service position as a consequence of  
3 this Act. An exempt employee who is transferred by this Act  
4 shall not suffer any loss of prior service credit, vacation or  
5 sick leave credits previously earned, or other employee benefits  
6 or privileges as a consequence of this Act, provided that the  
7 employees possess legal and public employment requirements for  
8 the position to which transferred or appointed, as applicable;  
9 provided further that subsequent changes in status may be made  
10 pursuant to applicable employment and compensation laws. The  
11 administrator of the Hawaii-employer-union health benefits trust  
12 fund captive insurance company may prescribe the duties and  
13 qualifications of such employees and fix their salaries without  
14 regard to chapter 76.

15 SECTION 13. All appropriations, records, equipment,  
16 machines, files, supplies, contracts, books, papers, documents,  
17 maps, and other personal property heretofore made, used,  
18 acquired, or held by the Hawaii employer-union health benefits  
19 trust fund relating to the functions transferred to the Hawaii  
20 employer-union health benefits trust fund captive insurance  
21 company shall be transferred with the functions to which they  
22 relate.



1           SECTION 14. The members serving on the board of the Hawaii  
2 employer-union health benefits trust fund on the effective date  
3 of this Act shall serve as the initial members of the Hawaii  
4 employer-union health benefits trust fund captive insurance  
5 company board established pursuant to section 2 and shall  
6 continue to serve as members of the Hawaii employer-union health  
7 benefits trust fund captive insurance company board until their  
8 terms expire.

9           SECTION 15. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11           SECTION 16. This Act shall take effect on July 1, 2014.



**Report Title:**

Captive Insurance

**Description:**

Addresses the unfunded liabilities for public employee health benefits without putting down \$500,000,000 per year for the next thirty years. Calls for the formation and implementation of a captive insurance facility to effectively manage the administration and financing of the current and potential future employee benefit obligations of the state and county governments. Establishes the Hawaii employer-union health benefits captive insurance fund, minimum capital and surplus account, and reserve account that holds ten per cent of the unfunded liabilities, which has the effect of fully funding the liabilities. Effective July 1, 2014.

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

