
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. The legislature finds that congenital heart
3 defects are structural abnormalities of the heart that are
4 present at birth and are the number one killer of infants with
5 birth defects. Congenital heart defects range in severity from
6 simple problems, such as holes between chambers of the heart, to
7 severe malformations, such as the complete absence of one or
8 more chambers or valves. Some congenital heart defects can
9 cause severe or life-threatening symptoms that require
10 intervention within the first days of life.

11 Pulse oximetry is a non-invasive test that estimates the
12 percentage of hemoglobin in blood that is saturated with oxygen.
13 When performed on newborns in birthing facilities, pulse
14 oximetry is effective at detecting critical, life-threatening
15 congenital heart defects, which otherwise go undetected by
16 current screening methods. The legislature finds that many
17 newborn lives could potentially be saved by earlier detection
18 and treatment of congenital heart defects if birthing facilities



1 in the State were required to perform this simple, non-invasive
2 newborn screening in conjunction with current congenital heart
3 disease screening methods.

4 The purpose of this part is to require birthing facilities
5 to perform a pulse oximetry screening or other medically
6 accepted test that measures the percentage of blood oxygen
7 saturation. This Act also establishes reporting requirements on
8 such screenings for quality improvement purposes and
9 appropriates funds for screenings on every newborn in its care
10 prior to discharge.

11 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§321- Newborn pulse oximetry screening. (a) A
15 birthing facility shall perform on every newborn in its care
16 prior to discharge of the newborn a pulse oximetry test for
17 critical congenital heart defects or other medically accepted
18 test that measures the percentage of blood oxygen saturation, as
19 approved by the guidelines of the American Academy of
20 Pediatrics.

21 (b) Subsection (a) shall not apply if the parents,
22 guardians, or other persons having custody or control of the



1 newborn, object to performance of the test required by
2 subsection (a) on the grounds that the test conflicts with their
3 religious tenets and beliefs and written objection is made a
4 part of the newborn's medical record.

5 (c) Each birthing facility shall report, at minimum, the
6 following data and information relating to the screening tests
7 performed pursuant to subsection (a) to the department for
8 quality improvement purposes:

- 9 (1) Newborns screened and not screened;
10 (2) Timing of screening after birth;
11 (3) Screening results;
12 (4) Outcomes of newborns who fail the screening; and
13 (5) Newborns detected with a critical congenital heart
14 defect who passed screening.

15 (d) For the purposes of this section, "birthing facility"
16 means an inpatient or ambulatory health care facility licensed
17 by the department of health that provides birthing and newborn
18 care services."

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2014-2015 for a
22 program for critical congenital heart defect screening of



1 newborns using pulse oximetry or other medically accepted test
2 that measures the blood oxygen saturation as approved by the
3 guidelines of the American Academy of Pediatrics.

4 The sum appropriated shall be expended by the department of
5 health for the purposes of this part.

6 SECTION 4. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2014-2015 for the
9 Hawaii health systems corporation to conduct at its facilities
10 critical congenital heart defect screening of newborns using
11 pulse oximetry or other medically accepted test that measures
12 the blood oxygen saturation as approved by the guidelines of the
13 American Academy of Pediatrics.

14 The sum appropriated shall be expended by the Hawaii health
15 systems corporation for the purposes of this part.

16 PART II

17 SECTION 5. This part shall be known and may be referred to
18 as the "Health Unfunded Liability Action or HULA Plan".

19 SECTION 6. The legislature finds that the State is facing
20 a potential fiscal crisis due to unfunded liabilities for public
21 employee health benefits. Currently, the unfunded liabilities
22 for the Hawaii employer-union health benefits trust fund is



1 between \$15,000,000,000 and \$18,000,000,000. These unfunded
2 liabilities can potentially drive the State on paper into
3 bankruptcy. To pay down this liability would require the State
4 to put down \$500,000,000 per year for the next thirty years. In
5 2001, the total amount of premiums for public employee health
6 benefits was approximately \$218,000,000. Currently, the total
7 amount of premiums for public employee health benefits is
8 approximately \$800,000,000 and the amount is increasing yearly.
9 In order to prevent bankruptcy, protect the State's bond rating,
10 and protect the State's reputation with investors, proactive
11 measures to deal with the unfunded liabilities need to occur.

12 Recently, other states have attempted to address their
13 unfunded liability concerns. Wisconsin passed legislation to
14 curtail collective bargaining rights of public employees and is
15 currently in a legal battle over the legislation. Vermont
16 passed legislation to institute the first single-payer health
17 care plan to cover its residents. In Hawaii, common proposed
18 solutions include an increase in the general excise tax, a
19 decrease in health benefits, or an increase in employee
20 contributions to the Hawaii employer-union health benefits trust
21 fund. The easiest way to address the unfunded liabilities for
22 public employee health benefits is to increase the general



1 excise tax by over one per cent. However, an increase of the
2 general excise tax will essentially place the burden of funding
3 on the private sector and the State at large. Additionally, a
4 single-payer system will have a greater effect on the private
5 sector than a plan that only targets state and county employees.
6 Further, a decrease in health benefits or an increase in
7 employee contribution will not be acceptable because public
8 employees deserve to maintain the benefits they have been
9 promised.

10 The State needs a more affordable and less painful
11 solution. Therefore, the legislature finds that it is in the
12 best interest of the State to establish a captive insurance
13 company that contains the provisions of the current Hawaii
14 employer-union health benefits trust fund (EUTF) in a captive
15 insurance company to effectively manage the administration and
16 financing of the current and potential future employee health
17 benefit obligations of the State and the counties.
18 Subsequently, a member representing the counties shall be
19 appointed to the board of the captive insurance company through
20 the recommendation of the Hawaii state association of counties
21 to represent the significant number of county public employees.
22 The captive insurance company will not compete with the private



1 sector because it will only manage the administration and
2 financing of the current and potential future employee health
3 benefit obligations of the State and the counties. Further, a
4 captive insurance company will address the necessary premium
5 contributions for public employee health benefits because there
6 would be a commitment from the board of directors, composed of
7 members from the public employers and employees, to fund the
8 employees' health benefits going forward. This would improve
9 the financial well being of the State by, among other things:

- 10 (1) Reducing operating costs by eliminating agents'
11 commissions, insurer profit margins, and stockholder
12 dividends;
- 13 (2) Retaining investment income and underwriting profits;
- 14 (3) Establishing reserves to pre-fund the unfunded public
15 employee health benefit liabilities;
- 16 (4) Establishing a board for transparency purposes so that
17 the public can be informed and involved;
- 18 (5) Contracting out health plans using the request for
19 proposal procedure under the Hawaii public procurement
20 code;
- 21 (6) Increasing the probability of price stability; and



1 (7) Allowing the State to deal directly with reinsurers
2 because a captive is a licensed insurer and typical
3 insureds can only approach the wholesale market if
4 they own an insurance company.

5 The goal of the captive insurance company is to slow the
6 growth of unfunded liabilities for public employee health
7 benefits, stabilize the liabilities, reduce the unfunded
8 liabilities, and restore the confidence of the investing public.
9 Therefore, the legislature finds that the understanding and
10 support of the people of Hawaii is necessary to prevent a fiscal
11 crisis that could ultimately bankrupt the State on paper. The
12 State must take control of its destiny because its fiscal
13 survival is at stake.

14 The captive insurance company will cover the current and
15 potential future employee health benefit obligations of the
16 State and county governments year in and year out through the
17 Hawaii employer-union health benefits fund captive insurance
18 company fund, rate stabilization reserves, and other post
19 employment benefits reserve fund. The other post employment
20 benefits reserve fund will maintain a balance of at least one
21 billion dollars by July 1, 2017, and will not require the State
22 to put down \$500,000,000 annually for thirty years. Instead,



1 the one billion dollars will be used as a reserve against or to
2 pay the fund's future costs of providing other post employment
3 benefits to retirees and their beneficiaries when there are
4 insufficient moneys to cover the current claims in the fund.
5 After July 1, 2017, if the balance of the other post employment
6 benefits reserve fund falls below one billion dollars the State
7 and counties will be required to make a contribution to restore
8 the balance to one billion dollars.

9 Additionally, funds arising from anticipated savings can be
10 used for future allocations such as funding the Employee
11 Retirement System reserves, funding anticipated cost increases
12 in collective bargaining negotiations, cash-funding rather than
13 bond-funding capital improvement projects, and improving public
14 school, charter school, and University of Hawaii system
15 facilities among other important programs and services.

16 Accordingly, the purpose of this part is to authorize the
17 State to form a captive insurance company to more effectively
18 manage the administration and financing of the current and
19 potential future employee health benefit obligations of the
20 State and county governments.



1 (1) Provide the various employers with an effective means
2 of financing and managing their current and potential
3 future liabilities arising from contractual and or
4 other obligations to provide health insurance, group
5 life insurance, and other benefits to the employers'
6 respective employees; and

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

9 (b) The captive insurance company may implement other
10 plans or programs as may be allowed, pursuant to article 19 of
11 chapter 431, for the benefit of the employers.

12 § -1:103 **Definitions.** For the purposes of this chapter:

13 "Attorney-in-fact" means the attorney-in-fact of the Hawaii
14 employer-union health benefits trust fund captive insurance
15 company appointed by the board or the attorney-in-fact's duly
16 authorized representative.

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

19 "Captive insurance company" means the Hawaii employer-union
20 health benefits trust fund captive insurance company described
21 in section -1:101.



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

5 "Commissioner" means the insurance commissioner of the
6 State of Hawaii.

7 "Contribution" means monetary payments made to the fund,
8 rate stabilization reserves, or other post employment benefit
9 reserve fund by the State, the counties, an employee-
10 beneficiary, or a qualified-beneficiary.

11 "County" means the counties of Hawaii, Kauai, and Maui and
12 the city and county of Honolulu, including their respective
13 boards of water supply and other quasi-independent boards,
14 commissions, and agencies.

15 "Credited service" means service as an officer or employee
16 paid by the State or county, service during the period of leave
17 of absence or exchange if the individual is paid by the State or
18 county during the leave of absence or exchange, and service
19 during the period of unpaid leave of absence or exchange if the
20 individual is engaged in the performance of a governmental
21 function or if the unpaid leave of absence is an approved leave
22 of absence for professional improvement.



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

2 (1) Spouse;

3 (2) Unmarried child deemed eligible by the board,
4 including a legally adopted child, stepchild, foster
5 child, or recognized natural child who lives with the
6 employee-beneficiary; and

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

11 "Employee" means an employee or officer of the State,
12 county, or legislature,

13 (1) Including:

14 (A) An elective officer;

15 (B) An officer or employee under an authorized leave
16 of absence;

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

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



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

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

13 (2) But excluding:

14 (A) A designated beneficiary of a retired member of
15 the employees' retirement system; a county
16 pension system; or a police, firefighters, or
17 bandsmen pension system of the State or a county;

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

21 (C) A part-time, temporary, and seasonal or casual
22 employee.



1 "Employee-beneficiary" means:

2 (1) An employee;

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

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

6 (4) The beneficiary of a retired member of the employees'
7 retirement system; a county pension system; or a
8 police, firefighters, or bandsmen pension system of
9 the State or a county, upon the death of the retired
10 member;

11 (5) The surviving child of a deceased retired employee, if
12 the child is unmarried and under the age of nineteen;
13 or

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

16 provided that the employee, the employee's beneficiary, or the
17 beneficiary of the deceased retired employee is deemed eligible
18 by the board to participate in a health benefits plan or long-
19 term care benefits plan under this chapter.

20 "Employer" means the State; the judiciary; the respective
21 counties of Hawaii, Maui, Kauai, and the city and county of
22 Honolulu; the department of education; the University of Hawaii;



1 the Honolulu authority for rapid transportation, and any
2 instrumentality of the State or its political subdivisions.

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

6 "Health benefits plan" means:

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

16 "Long-term care benefits plan" means:

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



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

4 "Other post employment benefits reserve fund" means the
5 Hawaii employer-union health benefits trust fund captive
6 insurance company other post employment benefits reserve fund
7 established pursuant to section -3:301.

8 "Part-time, temporary, and seasonal or casual employee"
9 means a person employed for fewer than three months or whose
10 employment is less than one-half of a full-time equivalent
11 position.

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

15 "Qualified-beneficiary" means, for purposes of the long-
16 term care benefits plan, a former employee or an employee who is
17 not eligible for benefits due to a reduction in work hours,
18 including the spouse, divorced spouse, parents, grandparents,
19 in-law parents, and in-law grandparents of an employee or
20 retiree; provided that the beneficiary was enrolled in the plan
21 before the employee or former employee became ineligible for
22 benefits.



1 "Rate stabilization reserves" means the Hawaii employer-
2 union health benefits trust fund captive insurance company rate
3 stabilization reserves established pursuant to section -3:201.

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

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

8 § -1:104 **Conflicts with insurance code.** Where the
9 provisions of this chapter and those of chapter 431 conflict,
10 the provisions of chapter 431 are controlling.

11 § -1:105 **Exemptions.** (a) The board and the attorney-
12 in-fact shall be exempt:

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

17 (b) The board shall prepare reports as required by section
18 37-47, but shall be otherwise exempt from the requirements of
19 chapter 37.

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

21 **PART I. ADMINISTRATION OF THE CAPTIVE INSURANCE COMPANY**

22 **GENERALLY**



1 three exclusive representatives that have the
2 largest number of employee-beneficiaries;

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

6 (C) One trustee representing retirees shall be
7 appointed from a list of two nominees selected by
8 mutual agreement of all eligible exclusive
9 representatives;

10 (2) Five trustees to represent employers; and

11 (3) One trustee to represent the counties appointed
12 through the recommendation of the Hawaii association
13 of counties.

14 Section 26-34 shall not apply to board member selection and
15 terms.

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

18 § -2:202 **Term of a trustee; vacancy.** The term of office
19 of each trustee shall be four years; provided that a trustee may
20 be reappointed for one additional consecutive four-year term.

21 A vacancy on the board shall be filled in the same manner
22 as the trustee who vacated that position was nominated and



1 appointed; provided that the criteria used for nominating and
2 appointing the successor shall be the same criteria used for
3 nominating and appointing the trustee who vacated the position;
4 provided further that vacancies on the board for each trustee
5 position representing retirees and employee-beneficiaries
6 appointed under section -2:201(1)(A) and (B), or (C) shall be
7 filled by appointment of the governor as follows:

8 (1) If a vacancy occurs in one of the trustee positions
9 described in section -2:201(1)(A), then the vacancy
10 shall be filled by appointment from a list of two
11 nominees submitted by the exclusive representative
12 from among the three largest exclusive employee
13 representatives that does not have a trustee among the
14 three trustee positions;

15 (2) If a vacancy occurs in a trustee position described in
16 section -2:201(1)(B), then the vacancy shall be
17 filled by appointment from a list of two nominees
18 submitted by mutual agreement of the exclusive
19 employee representatives described in section
20 -2:201(1)(B); and

21 (3) If a vacancy occurs in the retiree position described
22 in section -2:201(1)(C), then the vacancy shall be



1 filled by appointment from a list of two nominees
2 submitted by mutual agreement of all eligible
3 exclusive employee representatives.

4 If by the end of a trustee's term the trustee is not
5 reappointed or the trustee's successor is not appointed, the
6 trustee shall serve until the trustee's successor is appointed.

7 § -2:203 **Decisions of board binding.** The decisions of
8 the board shall be binding upon all as-is employers except where
9 applicable law or rules adopted by the captive insurance company
10 requires a vote by all as-is employers.

11 § -2:204 **Chair, vice-chair, and secretary-treasurer.**
12 The trustees shall elect from among themselves a chair, a vice-
13 chair, and a secretary-treasurer.

14 § -2:205 **Compensation and expenses.** Each trustee shall
15 serve without compensation, but the trustees may be reimbursed
16 from the fund for any reasonable expenses incurred in carrying
17 out the purposes of the fund.

18 § -2:206 **Meetings; notice.** Meetings may be scheduled,
19 and notice of meetings shall be provided as follows:

20 (1) The chair may call a meeting of the board at any time
21 by giving at least six calendar days' written notice



1 of the time and place of the meeting to all other
2 trustees; and

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

6 § -2:207 **Quorum; board actions; voting.** (a) Seven
7 trustees, three of whom represent employers, three of whom
8 represent employee-beneficiaries, and one who represents the
9 counties shall constitute a quorum for the transaction of
10 business.

11 (b) Any action taken by the board shall be by a majority
12 vote of a quorum of the trustees.

13 § -2:208 **Records and minutes.** The board shall keep
14 records and minutes of all meetings of the board.

15 § -2:209 **Legal advisor.** The attorney general shall
16 serve as legal advisor to the board and shall provide legal
17 representation for the Hawaii employer-union health benefits
18 trust fund captive insurance company.

19 **PART III. BOARD POWERS AND DUTIES**

20 § -2:301 **Powers and duties of the board.** The board
21 shall:



- 1 (1) Establish a captive insurance company pursuant to
2 article 19 of chapter 431, and the provisions of this
3 chapter to administer and carryout the purposes of
4 this chapter;
- 5 (2) Appoint an attorney-in-fact who shall be placed within
6 the department of budget and finance for
7 administrative purposes to carry out the day-to-day
8 administration of the fund, rate stabilization
9 reserves, other post employment benefits reserve fund,
10 and captive insurance company;
- 11 (3) Supervise the finances of the captive insurance
12 company;
- 13 (4) Supervise the captive insurance company's operations
14 to assure conformity with the insurance and
15 reinsurance policies issued through the captive
16 insurance company and with the standards established
17 by this chapter;
- 18 (5) Procure the audit of accounts and records of the
19 captive insurance company, at the captive insurance
20 company's expense;
- 21 (6) Adopt rules as may be necessary for the purpose of
22 this chapter pursuant to chapter 91;



1 (7) Approve the selection of the third party
2 administrators to which certain duties of the
3 attorney-in-fact may be delegated; and

4 (8) Have such additional powers and functions as provided
5 by this article or rules adopted by the captive
6 insurance company.

7 § -2:302 **Administration of the fund.** The board shall
8 administer and carry out the purpose of the fund established
9 pursuant to section -3:101. Health and other benefits plans
10 shall be provided at a cost affordable to both employers and
11 public employees.

12 § -2:303 **Health benefits plan; carriers.** (a) The board
13 shall establish the health benefits plan or plans, which shall
14 be exempt from the minimum group requirements of chapter 431.

15 (b) The board may contract for health benefits plans or
16 provide health benefits through a noninsured schedule of
17 benefits.

18 § -2:304 **Group life insurance benefits or group life**
19 **insurance program.** The board may provide benefits under a group
20 life insurance benefits program or group life insurance program
21 to employees.



1 § -2:305 **Long-term care benefits plan; carrier or third-**
2 **party administrator.** (a) The board may establish a long-term
3 care benefits plan or plans for employee-beneficiaries; the
4 spouses, parents, grandparents, in-law parents, and in-law
5 grandparents of employee-beneficiaries; and qualified-
6 beneficiaries. The plan or plans shall be at no cost to
7 employers and shall comply with article 10H of chapter 431.

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

10 (1) Employee-beneficiaries and their spouses, parents, and
11 grandparents;

12 (2) Employee-beneficiary in-law parents and grandparents;
13 and

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

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

18 § -2:306 **Plans for part-time, temporary, and seasonal or**
19 **casual employees.** (a) The board may offer medical, hospital,
20 or surgical benefits plans to part-time, temporary, and seasonal
21 or casual employees at no cost to the employers. The board may
22 determine eligibility for part-time, temporary, and seasonal or



1 casual employees by rules exempt from chapter 91 as provided in
2 section -2:312.

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

11 (c) The board may contract for the medical, hospital, or
12 surgical benefits plan or plans. Each part-time, temporary, and
13 seasonal or casual employee enrolled for medical, hospital, or
14 surgical benefits shall pay monthly contributions directly to
15 the board's designated carriers. The monthly contributions may
16 include the carrier's administrative costs.

17 § -2:307 **Eligibility.** (a) The board shall establish
18 eligibility criteria to determine who can qualify as an
19 employee-beneficiary, dependent-beneficiary, or qualified-
20 beneficiary, consistent with the provisions of this chapter.

21 (b) A retired member of the employees' retirement system;
22 a county pension system; or a police, firefighters, and bandsmen



1 pension system of the State or county, shall be eligible to
2 qualify as an employee-beneficiary:

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

6 (2) Without regard to the date of the retired member's
7 retirement.

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

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

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

15 § -2:308 **Benefits plan information and enrollment.** (a)

16 The board shall make information summarizing approved benefits
17 plans available to each employee-beneficiary. The information
18 shall, to the extent reasonably possible, be distributed to each
19 employee-beneficiary at the same time and in the same manner.

20 (b) The board shall establish conditions and procedures
21 for benefits plan enrollment.



1 **§ -2:309 Health benefits plan supplemental to medicare.**

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

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

14 (2) The State, through the department of budget and
15 finance, and the counties, through their respective
16 departments of finance, shall pay to the fund a
17 contribution equal to an amount not less than the
18 medicare part B premium, for each of the following who
19 are enrolled in the medicare part B medical insurance
20 plan: (A) an employee-beneficiary who is a retired
21 employee, (B) an employee-beneficiary's spouse while
22 the employee-beneficiary is living, and (C) an



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



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



1 § **-2:310 Other powers.** In addition to the power to
2 administer the fund, the board may:

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

5 (2) Invest moneys in the same manner specified in section
6 88-119(1) (A), (1) (B), (1) (C), (2), (3), (4), (5), (6),
7 and (7);

8 (3) Hold, purchase, sell, assign, transfer, or dispose of
9 any securities or other investments of the fund, as
10 well as the proceeds of those investments and any
11 money belonging to the fund;

12 (4) Make payments of periodic charges and pay for
13 reasonable expenses incurred in carrying out the
14 purposes of the fund;

15 (5) Contract for work to carry out the purpose of this
16 part, including the performance of financial audits of
17 the fund and claims audits of its as-is carriers;

18 (6) Retain auditors, actuaries, investment firms and
19 managers, benefit plan consultants, or other
20 professional advisors to carry out the purposes of
21 this part;



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

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

8 § -2:311 **Other duties.** The board shall:

9 (1) Maintain accurate records and accounts of all
10 financial transactions of the fund that shall be
11 audited annually and summarized in an annual report to
12 the governor and legislature;

13 (2) Maintain suitable and adequate records and provide
14 information requested by State and county employers as
15 necessary to carry out the purpose of the fund; and

16 (3) Procure fiduciary liability insurance and error and
17 omissions coverage and any other appropriate
18 liability, casualty, and property insurance as may be
19 necessary to protect the interests of the captive
20 insurance company.

21 § -2:312 **Rules; policies, standards, and procedures.**

22 (a) The board may adopt rules for the purposes of this chapter.



1 Rules shall be adopted without regard to chapter 91. Rulemaking
2 procedures shall be adopted by the board and shall minimally
3 provide for:

4 (1) Consultation with employers and affected employee
5 organizations with regard to proposed rules;

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

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

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

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

12 (c) The board may adopt rules, without regard to chapter
13 91, governing dispute resolution procedures if impasse in
14 decision-making occurs; provided that the rules shall be adopted
15 with the concurrence of a majority vote, as provided in section
16 -2:207(b).

17 **ARTICLE 3: HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**
18 **CAPTIVE INSURANCE COMPANY FUND, RATE STABILIZATION RESERVES, AND**
19 **OTHER POST EMPLOYMENT BENEFITS RESERVE FUND**

20 **PART I. HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**
21 **CAPTIVE INSURANCE COMPANY FUND**



1 **§ -3:101 Establishment of the Hawaii employer-union**
2 **health benefits trust fund captive insurance company fund.**

3 There shall be a Hawaii employer-union health benefits trust
4 fund captive insurance company fund to be placed within the
5 department of budget and finance for administrative purposes.

6 The fund shall consist of contributions, interest, income,
7 dividends, refunds, rate credits, legislative initiatives, and
8 other returns. It is hereby declared that any and all sums
9 contributed or paid from any source to the fund created by this
10 part, and all assets of the fund including any and all interest
11 and earnings on the same, are and shall be held in trust by the
12 board for the exclusive use and benefit of the employee-
13 beneficiaries, dependent-beneficiaries, and qualified
14 beneficiaries and shall not be subject to appropriation for any
15 other purpose whatsoever. The fund shall be under the control
16 of the board.

17 **§ -3:102 Trust fund; purpose.** (a) The fund shall be
18 used to provide employee-beneficiaries, dependent-beneficiaries,
19 and qualified-beneficiaries with health and other benefit plans,
20 and to pay administrative and other expenses of the fund. All
21 assets of the fund are and shall be dedicated to providing
22 health and other benefits plans to the employee-beneficiaries,



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

6 (b) The fund, including any earnings on investments, and
7 rate credits or reimbursements from any carrier or self-insured
8 plan and any earning or interest derived therefrom, may be used
9 to stabilize health and other benefit plan rates; provided that
10 the approval of the governor and the legislature shall be
11 necessary to fund administrative and other expenses necessary to
12 effectuate these purposes.

13 (c) The fund may be used to provide group life insurance
14 benefits to employees to the extent that contributions are
15 provided for group life insurance benefits in sections -
16 3:104(b) and -3:110.

17 (d) The fund may assist the State and the counties to
18 implement and administer cafeteria plans authorized under Title
19 26 United States Code section 125, the Internal Revenue Code of
20 1986, as amended, and section 78-30.

21 (e) At the discretion of the board, some or all of the
22 fund may be used as a reserve against or to pay the fund's



1 future costs of providing health and other benefits plans
2 established under sections -2:309 and -3:110 and any other
3 benefits plans the board establishes for retired employees and
4 their beneficiaries. Such funds shall be deposited into the
5 rate stabilization reserves.

6 **§ -3:103 Employer contributions irrevocable.**

7 Notwithstanding any law to the contrary, all of the monthly
8 contributions that the State and counties make to the fund under
9 sections -3:104, -3:105, -3:106, -3:107, -3:108,
10 and -3:109, and all other contributions that the State and
11 counties may make to the fund, shall be irrevocable; provided
12 that this shall not preclude the fund from returning
13 contributions or payments made by the State or any county under
14 a mistake of fact within one year after the payment of the
15 contributions or payments.

16 **§ -3:104 State and county contributions; active**

17 **employees.** (a) The State, through the department of budget and
18 finance, and the counties, through their respective departments
19 of finance, shall pay to the fund a monthly contribution equal
20 to the amount established under chapter 89C or specified in the
21 applicable public sector collective bargaining agreements,
22 whichever is appropriate, for each of their respective employee-



1 beneficiaries and employee-beneficiaries with dependent-
2 beneficiaries, which shall be used toward the payment of costs
3 of a health benefits plan; provided that:

4 (1) The monthly contribution shall be a specified dollar
5 amount;

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

8 (3) If both husband and wife are employee-beneficiaries,
9 the total contribution by the State or the county
10 shall not exceed the monthly contribution for a family
11 plan; and

12 (4) If the State or any of the counties establish
13 cafeteria plans in accordance with Title 26, United
14 States Code section 125, the Internal Revenue Code of
15 1986, as amended, and section 78-30, the monthly
16 contribution for those employee-beneficiaries who
17 participate in a cafeteria plan shall be made through
18 the cafeteria plan, and the payments made by the State
19 or counties shall include their respective
20 contributions to the fund and their employee-
21 beneficiary's share of the cost of the employee-
22 beneficiary's health benefits plan.



1 (b) The State, through the department of budget and
2 finance, and the counties, through their respective departments
3 of finance, shall pay to the fund a monthly contribution equal
4 to the amount established under chapter 89C or specified in the
5 applicable public sector collective bargaining agreement,
6 whichever is applicable, for each of their respective employees,
7 to be used toward the payment of group life insurance benefits
8 for each employee.

9 (c) All moneys, including state and county contributions
10 in the Hawaii employer-union health benefits trust fund shall be
11 transferred and deposited into the Hawaii employer-union health
12 benefits trust fund captive insurance company fund established
13 pursuant to this article.

14 § -3:105 **State and county contributions; retired**
15 **employees.** (a) Notwithstanding any law to the contrary, this
16 section shall apply to state and county contributions to the
17 fund for:

18 (1) The dependent-beneficiary of an employee who is killed
19 in the performance of duty;

20 (2) A dependent-beneficiary, upon the death of the
21 employee-beneficiary, except as provided in section

22 -3:109;



1 (3) An employee-beneficiary who retired after June 30,
2 1984, due to a disability falling within sections 88-
3 79 and 88-285;

4 (4) An employee-beneficiary who retired before July 1,
5 1984;

6 (5) An employee-beneficiary who:

7 (A) Was hired before July 1, 1996;

8 (B) Retired after June 30, 1984; and

9 (C) Who has ten years or more of credited service,
10 excluding sick leave;

11 (6) An employee-beneficiary who:

12 (A) Was hired after June 30, 1996; and

13 (B) Retired with twenty-five or more years of
14 credited service, excluding sick leave, except as
15 provided in section -3:109; and

16 (7) Employees who retired prior to 1961 and their
17 dependent-beneficiaries.

18 (b) Effective July 1, 2003, there is established a base
19 monthly contribution for health benefit plans that the State,
20 through the department of budget and finance, and the counties,
21 through their respective departments of finance, shall pay to
22 the fund, up to the following:



- 1 (1) \$218 for each employee-beneficiary enrolled in
2 supplemental medicare self plans;
- 3 (2) \$671 for each employee-beneficiary enrolled in
4 supplemental medicare family plans;
- 5 (3) \$342 for each employee-beneficiary enrolled in non-
6 medicare self plans; and
- 7 (4) \$928 for each employee-beneficiary enrolled in non-
8 medicare family plans.

9 The monthly contribution by the State or county shall not
10 exceed the actual cost of the health benefits plan or plans. If
11 both husband and wife are employee-beneficiaries, the total
12 contribution by the State or county shall not exceed the monthly
13 contribution for a supplemental medicare family or non-medicare
14 family plan, as appropriate.

15 (c) Effective July 1, 2004, there is established a base
16 monthly contribution for health benefit plans that the State,
17 through the department of budget and finance, and the counties,
18 through their respective departments of finance, shall pay to
19 the fund, up to the following:

- 20 (1) \$254 for each employee-beneficiary enrolled in
21 supplemental medicare self plans;



- 1 (2) \$787 for each employee-beneficiary enrolled in
2 supplemental medicare family plans;
- 3 (3) \$412 for each employee-beneficiary enrolled in non-
4 medicare self plans; and
- 5 (4) \$1,089 for each employee-beneficiary enrolled in non-
6 medicare family plans.

7 The monthly contribution by the State or county shall not
8 exceed the actual cost of the health benefit plan or plans and
9 shall not be required to cover increased benefits above those
10 initially contracted for by the fund for plan year 2004-2005.
11 If both husband and wife are employee-beneficiaries, the total
12 contribution by the State or county shall not exceed the monthly
13 contribution for a supplemental medicare family or non-medicare
14 family plan, as appropriate.

15 (d) The base composite monthly contribution shall be
16 adjusted annually, beginning July 1, 2005. The adjusted base
17 composite monthly contribution for each new plan year (July 1
18 until June 30) shall be calculated by increasing or decreasing
19 the base composite monthly contribution in effect through the
20 end of the previous plan year by the percentage increase or
21 decrease in the medicare part B premium rate for those years,
22 which percentage shall be calculated by dividing the medicare



1 part B premium rate in effect at the beginning of the new plan
2 year by the rate in effect at the beginning of the previous plan
3 year.

4 For the plan year beginning July 1, 2005, the adjusted base
5 monthly contribution shall be computed using the actual
6 contracted premium rate as of July 1, 2004, for medicare and
7 non-medicare, self and family health benefits plans with the
8 highest actual contracted premium rate as of July 1, 2004.

9 As used in this subsection, "medicare part B premium rate"
10 means the rate published in the Federal Register each year on
11 November 1 or on the business day closest to November 1 of each
12 year after the medicare part B premium rate has been established
13 by the Secretary of Health and Human Services and approved by
14 the United States Congress.

15 (e) The base composite monthly contribution shall be
16 adjusted annually, beginning January 1, 2013. The adjusted base
17 composite monthly contribution for each new plan year (January 1
18 until December 31) shall be calculated by increasing or
19 decreasing the base composite monthly contribution in effect
20 through the end of the previous plan year by the percentage
21 increase or decrease in the medicare part B premium rate for
22 those years, which percentage shall be calculated by dividing



1 the medicare part B premium rate in effect at the beginning of
2 the new plan year by the rate in effect at the beginning of the
3 previous plan year.

4 For the plan year beginning January 1, 2013, the adjusted
5 base monthly contribution shall be computed using the base
6 composite monthly contribution as of July 1, 2012.

7 As used in this subsection, "medicare part B premium rate"
8 means the rate published in the Federal Register each year on
9 November 1 or on the business day closest to November 1 of each
10 year after the medicare part B premium rate has been established
11 by the United States Secretary of Health and Human Services and
12 approved by the United States Congress.

13 (f) If the board adopts a rate structure that provides for
14 other than self and family rates for the health benefit plans,
15 the base monthly contribution for the rate structure adopted by
16 the board shall be adjusted to provide the equivalent
17 underwriting cost as the base monthly contribution that is
18 provided for in this section.

19 **§ -3:106 State and county contribution; reimbursement**
20 **for retired employees.** An employee-beneficiary who retires and
21 relocates outside of the State shall be reimbursed for the
22 premiums paid by the employee-beneficiary for a personal health



1 insurance policy; provided that the board shall determine which
2 employee-beneficiaries and what types of personal health
3 insurance policies shall be eligible for reimbursement and may
4 set other conditions that shall be met for the employee-
5 beneficiary to receive the reimbursements provided under this
6 section.

7 The reimbursement shall be the lesser of:

8 (1) The actual cost of the personal health insurance
9 policy; or

10 (2) The amount of the state or county contribution for the
11 most comparable health benefits plan.

12 Reimbursements shall be paid by the fund on a quarterly
13 basis upon the presentation of documentation that the premiums
14 for the personal health insurance policy have been paid by the
15 employee-beneficiary. This section shall apply to all employee-
16 beneficiaries who retire and relocate outside of the State,
17 regardless of their date of retirement.

18 **§ -3:107 State and county contributions; retired**
19 **employees with fewer than ten years of service.** (a) This
20 section shall apply to state and county contributions to the
21 fund for employees specified in paragraph (1)(D) of the
22 definition of "employee" in section -1:103 who:



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

4 (b) The State, through the department of budget and
5 finance, and the counties, through their respective departments
6 of finance, shall pay to the fund a monthly contribution equal
7 to one-half of the base monthly contribution set forth under
8 section -3:105(b) for retired employees enrolled in medicare
9 or non-medicare health benefits plans. If both husband and wife
10 are employee-beneficiaries, the total contribution by the State
11 or county shall not exceed the monthly contribution for
12 supplemental medicare family or non-medicare family plan, as
13 appropriate.

14 **§ -3:108 State and county contributions; employees hired**
15 **after June 30, 1996, but before July 1, 2001, and retired with**
16 **fewer than twenty-five years of service.** (a) This section
17 shall apply to state and county contributions to the fund for
18 employees who were hired after June 30, 1996, but before July 1,
19 2001, and who retire with fewer than twenty-five years of
20 credited service, excluding sick leave; provided that this
21 section shall not apply to the following employees, for whom



1 state and county contributions shall be made as provided by
2 section -3:105:

- 3 (1) An employee hired prior to July 1, 1996, who transfers
4 employment after June 30, 1996, and who cumulatively
5 accrues at least ten years of credited service; and
- 6 (2) An employee hired prior to July 1, 1996, who has at
7 least ten years of credited service prior to a break
8 in service.

9 For the purposes of this section:

10 "Break in service" means to leave state or county
11 employment for more than ninety calendar days before returning
12 to state or county employment.

13 "Transfer" means to leave state or county employment and
14 return to state or county employment within ninety calendar
15 days.

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



1 (c) The State, through the department of budget and
2 finance, and the counties, through their respective departments
3 of finance, shall pay to the fund:

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

9 (2) For retired employees enrolled in medicare or non-
10 medicare health benefit plans with at least fifteen
11 but fewer than twenty-five years of service, a monthly
12 contribution of seventy-five per cent of the base
13 monthly contribution set forth under section
14 -3:105(b).

15 If both husband and wife are employee-beneficiaries, the total
16 contribution by the State or county shall not exceed the monthly
17 contribution for a supplemental medicare family or non-medicare
18 family plan, as appropriate.

19 § -3:109 **State and county contributions; employees hired**
20 **after June 30, 2001, and retired.** (a) This section shall apply
21 to state and county contributions to the fund for employees
22 hired after June 30, 2001, and who retired, except that this



1 section shall not apply to the following employees, for whom
2 state and county contributions shall be made as provided by
3 section -3:108:

4 (1) An employee hired after June 30, 1996, and prior to
5 July 1, 2001, who transfers employment after June 30,
6 2001, and who cumulatively accrues at least ten years
7 of credited service; and

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

11 For purposes of this section:

12 "Break in service" means to leave state or county
13 employment for more than ninety calendar days before returning
14 to state or county employment.

15 "Transfer" means to leave state or county employment and
16 return to state or county employment within ninety calendar
17 days.

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



1 (c) The State, through the department of budget and
2 finance, and the counties, through their respective departments
3 of finance, shall pay to the fund:

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

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

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

19 (4) One-half of the monthly contributions for the
20 employee-beneficiary or employee-beneficiary with
21 dependent-beneficiaries upon the death of the
22 employee, as defined in section -1:103.



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

5 § -3:110 **Group life insurance benefits plans for retired**
6 **employees; contributions.** (a) The State, through the
7 department of budget and finance, and the counties, through
8 their respective departments of finance, shall pay to the fund a
9 base monthly contribution as set forth in subsection (b) for
10 each retired employee enrolled in the fund's group life
11 insurance benefits plan under section -3:107, -3:108, and
12 -3:109.

13 (b) Effective July 1, 2003, there is established a base
14 monthly contribution of \$4.16 for each retired employee enrolled
15 in a group life insurance plan; provided that the monthly
16 contribution shall not exceed the actual cost of the group life
17 insurance benefits plan. The base composite monthly
18 contribution shall be adjusted annually beginning July 1, 2004.
19 The adjusted base composite monthly contribution for each new
20 plan year shall be calculated by increasing or decreasing the
21 base composite monthly contribution in effect through the end of
22 the previous plan year by the percentage increase or decrease in



1 the medicare part B premium rate for those years. The
2 percentage shall be calculated by dividing the medicare part B
3 premium rate in effect at the beginning of the new plan year by
4 the rate in effect through the end of the previous plan year.

5 As used in this subsection, "medicare part B premium rate"
6 means the rate published in the Federal Register each year on
7 November 1 or on the business day closest to November 1 of each
8 year after the medicare part B premium rate has been established
9 by the Secretary of Health and Human Services and approved by
10 the United States Congress.

11 **§ -3:111 State and county contributions not considered**
12 **wages or salary.** Contributions made by the State or the
13 counties under this part shall not be considered wages or salary
14 of an employee-beneficiary. No employee-beneficiary shall have
15 any vested right in or be entitled to receive any part of any
16 contribution made to the fund.

17 **§ -3:112 Reimbursement for state contributions.** (a)
18 All state agencies having control of funds other than the
19 general fund shall reimburse the State for contributions made by
20 the State pursuant to sections -3:104, -3:105, -3:106,
21 -3:107, -3:108, and -3-109 on account of agency



1 employees whose compensation is paid in whole or part from funds
2 other than the general fund.

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

11 § -3:113 **Employee-beneficiary contributions; health**
12 **benefit plans.** (a) Each employee-beneficiary shall make a
13 monthly contribution to the fund amounting to the difference
14 between the monthly charge of the health benefits plan selected
15 by the employee-beneficiary and the contribution made by the
16 State or county for the employee-beneficiary to the fund.
17 Nothing in this section shall prohibit any employee-beneficiary
18 from participating in a cafeteria plan authorized under Title 26
19 United States Code section 125, Internal Revenue Code of 1986,
20 as amended, and section 78-30.

21 (b) During the period the health benefits plan selected by
22 an employee-beneficiary is in effect, the employee-beneficiary,



1 if allowed by law, shall authorize the employee-beneficiary's
2 contribution to be withheld and transmitted to the fund monthly
3 by the comptroller, employees' retirement system, or finance
4 officer who disburses the employee-beneficiary's compensation,
5 pension, or retirement pay. If an employee-beneficiary's
6 contribution to the fund is not withheld and transmitted to the
7 fund, the employee-beneficiary shall pay the monthly
8 contribution:

9 (1) In the case of an employee-beneficiary who normally
10 receives the employee-beneficiary's compensation from
11 the comptroller or employees' retirement system,
12 directly to the fund by the first day of each month;
13 or

14 (2) In the case of all other employee-beneficiaries, to
15 the respective finance officer from whom the employee-
16 beneficiary normally receives compensation for
17 transmittal to the fund by the first day of each
18 month.

19 (c) Notwithstanding subsection (a), an employee-
20 beneficiary's monthly contribution to the fund shall include the
21 amount that would have been the employee-beneficiary's



1 contribution if the employee-beneficiary had not elected to
2 participate in the cafeteria plan.

3 **§ -3:114 Employee-beneficiary or qualified-beneficiary**
4 **contributions; long-term care benefits plan.** (a) During the
5 period the long-term care benefits plan is in effect, the
6 employee-beneficiary, if allowed by law, shall authorize the
7 employee-beneficiary's contribution to be withheld and
8 transmitted to the fund monthly by the comptroller, employees'
9 retirement system, or finance officer who disburses the
10 employee-beneficiary's compensation, pension, or retirement pay.
11 If an employee-beneficiary's monthly contribution to the fund is
12 not withheld and transmitted to the fund, the employee-
13 beneficiary shall pay the monthly contribution directly to the
14 board's designated carrier or third-party administrator as
15 specified by the board.

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

19 **PART II. RATE STABILIZATION RESERVES**

20 **§ -3:201 Establishment of Hawaii employer-union health**
21 **benefits trust fund captive insurance company rate stabilization**
22 **reserves.** There is established a Hawaii employer-union health



1 benefits trust fund captive insurance company rate stabilization
2 reserves to be placed within the department of budget and
3 finance for administrative purposes. The rate stabilization
4 reserves shall consist of required employer contributions,
5 monies transferred from the fund, and legislative initiatives.
6 The rate stabilization reserves shall meet the requirements of
7 the Government Accounting Standards Board regarding employment
8 benefits trusts.

9 § -3:202 **Rate stabilization reserves; purpose; initial**
10 **balance.** The rate stabilization reserves shall be used as a
11 reserve when there is insufficient money in the fund to cover
12 the costs of providing health and other benefits plans
13 established under sections -2:309 and -3:111 and any other
14 benefits plans the board establishes for retired employees and
15 their beneficiaries.

16 § -3:203 **Employer contributions; mandatory.** (a) The
17 board in its sole discretion shall require each employer to make
18 a contribution to the rate stabilization reserves established
19 under section -3:201.

20 (b) Employer contributions to the rate stabilization
21 reserves shall be irrevocable, all assets of the rate
22 stabilization reserves shall be dedicated exclusively to provide



1 health and other benefits to retirees and their beneficiaries
2 when there are insufficient moneys to cover the current claims
3 in the fund. Assets of the rate stabilization reserves shall
4 not be subject to appropriation for any other purpose and shall
5 not be subject to claims by creditors of employers, the board,
6 or the attorney-in-fact. The board's powers under part III of
7 article II of this chapter shall apply to the rate stabilization
8 reserves established under section -3:201.

9 **§ -3:204 Additional employer contributions.** At any
10 point subsequent to the establishment of the rate stabilization
11 reserves the board may require each individual employer to make
12 additional contributions to the rate stabilization reserves.

13 **PART III. OTHER POST EMPLOYMENT BENEFITS RESERVE FUND**

14 **§ -3:301 Establishment of Hawaii employer-union health**
15 **benefits trust fund captive insurance company other post**
16 **employment benefits reserve fund.** There is established a Hawaii
17 employer-union health benefits trust fund captive insurance
18 company other post employment benefits reserve fund to be placed
19 within the department of budget and finance for administrative
20 purposes. The other post employment benefits reserve fund shall
21 consist of required employer contributions pursuant to
22 sections -3:302, -3:303, and legislative initiatives.



1 § **-3:302 Other post employment benefits reserve fund;**
2 **purpose; initial balance.** The other post employment benefits
3 reserve fund shall be used as a reserve against or to pay the
4 fund's future costs of providing other post employment benefits
5 and assets of the other post employment benefits reserve fund
6 shall be dedicated exclusively to provide other post employment
7 benefits to retirees and their beneficiaries when there are
8 insufficient moneys to cover the current claims in the fund.

9 § **-3:303 Employer contributions; mandatory.** (a) The
10 board shall determine the required contribution owed by each
11 employer for the two fiscal years, beginning with fiscal year
12 2015-2016 and ending with fiscal year 2016-2017. The other post
13 employment benefits reserve fund shall maintain a balance of one
14 billion dollars by the end of fiscal year 2016-2017. Any
15 amounts an employer has previously contributed to any account
16 established as a reserve against or to pay any future costs of
17 providing health and other benefits plans shall be deposited to
18 the other post employment benefits reserve fund and applied as a
19 credit to such employer's liability under this section. Such
20 amounts shall be due and payable by the first day of the
21 respective fiscal year. The board shall also take into



1 consideration the amount of employees covered by each employer
2 when determining the two year required contributions.

3 (b) Beginning July 1, 2017, the balance of the other post
4 employment benefits reserve fund shall be at a minimum of one
5 billion dollars. The board shall not require any contributions
6 if the other post employment benefits reserve fund has a balance
7 of one billion dollars. If at any time the balance falls below
8 one billion dollars, the board shall require the employers to
9 make a contribution to the other post employment benefits
10 reserve fund to restore the balance back to one billion dollars.

11 (c) The board's powers under part III of article II of
12 this chapter shall apply to the other post employment benefits
13 reserve fund."

14 SECTION 8. Section 88-9, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

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

20 (1) As an elective officer pursuant to section 88-42.6(c)
21 or as a member of the legislature pursuant to section
22 88-73(d);



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



1 (A) The retirant was not employed by the State or a
2 county during the twelve calendar months prior to
3 the first day of reemployment;

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

8 (C) Each employer shall contribute to the pension
9 accumulation fund the required percentage of the
10 rehired retirant's compensation to amortize the
11 system's unfunded actuarial accrued liability; or

12 (5) As a teacher or an administrator in a teacher shortage
13 area identified by the department of education or in a
14 charter school or as a mentor for new classroom
15 teachers; provided that:

16 (A) The retirant was not employed by the State or a
17 county during the twelve calendar months prior to
18 the first day of reemployment;

19 (B) No agreement was entered into between the State
20 or a county and the retirant prior to the
21 retirement of the retirant, for the return to
22 work by the retirant after retirement; and



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

6 SECTION 9. Section 88-95, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§88-95 Withholding of dues and insurance premiums.** A
9 retired member, if the retired member requests in writing, may
10 have withheld from the retired member's pension, annuity, or
11 retirement allowance, payments to the Hawaii employer-union
12 health benefits trust fund captive insurance company fund and
13 employee organizations for dues and insurance premiums."

14 SECTION 10. Section 88-103.5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The employees' retirement system shall:
17 (1) Disclose to the Hawaii employer-union health benefits
18 trust fund captive insurance company and employee
19 organizations information related to the
20 administration of pension, annuity, or retirement
21 allowance deductions, as follows: name, social
22 security number, and amounts and dates of both



1 voluntary and mandatory deductions remitted to the
2 recipient; and
3 (2) Release the records of its retirants and beneficiaries
4 to the Hawaii employer-union health benefits trust
5 fund captive insurance company for the disbursement of
6 payments authorized under section [~~87A-23.~~
7 -2:309."]

8 SECTION 11. Section 89-2, Hawaii Revised Statutes, is
9 amended by amending the definitions of "collective bargaining"
10 and "employee organization" to read as follows:

11 ""Collective bargaining" means the performance of the
12 mutual obligations of the public employer and an exclusive
13 representative to meet at reasonable times, to confer and
14 negotiate in good faith, and to execute a written agreement with
15 respect to wages, hours, amounts of contributions by the State
16 and counties to the Hawaii employer-union health benefits trust
17 fund captive insurance company fund, and other terms and
18 conditions of employment, except that by any such obligation
19 neither party shall be compelled to agree to a proposal or be
20 required to make a concession. For the purposes of this
21 definition, "wages" includes the number of incremental and
22 longevity steps, the number of pay ranges, and the movement



1 between steps within the pay range and between the pay ranges on
2 a pay schedule under a collective bargaining agreement.

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

11 SECTION 12. Section 89-9, Hawaii Revised Statutes, is
12 amended as follows:

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

14 "(a) The employer and the exclusive representative shall
15 meet at reasonable times, including meetings sufficiently in
16 advance of the February 1 impasse date under section 89-11, and
17 shall negotiate in good faith with respect to wages, hours, the
18 amounts of contributions by the State and respective counties to
19 the Hawaii employer-union health benefits trust fund captive
20 insurance company fund to the extent allowed in subsection (e),
21 and other terms and conditions of employment which are subject
22 to collective bargaining and which are to be embodied in a



1 written agreement as specified in section 89-10, but such
2 obligation does not compel either party to agree to a proposal
3 or make a concession."

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

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

- 15 (1) Direct employees;
- 16 (2) Determine qualifications, standards for work, and the
17 nature and contents of examinations;
- 18 (3) Hire, promote, transfer, assign, and retain employees
19 in positions;
- 20 (4) Suspend, demote, discharge, or take other disciplinary
21 action against employees for proper cause;



- 1 (5) Relieve an employee from duties because of lack of
2 work or other legitimate reason;
- 3 (6) Maintain efficiency and productivity, including
4 maximizing the use of advanced technology, in
5 government operations;
- 6 (7) Determine methods, means, and personnel by which the
7 employer's operations are to be conducted; and
- 8 (8) Take such actions as may be necessary to carry out the
9 missions of the employer in cases of emergencies.

10 This subsection shall not be used to invalidate provisions
11 of collective bargaining agreements in effect on and after June
12 30, 2007, and shall not preclude negotiations over the
13 procedures and criteria on promotions, transfers, assignments,
14 demotions, layoffs, suspensions, terminations, discharges, or
15 other disciplinary actions as a permissive subject of bargaining
16 during collective bargaining negotiations or negotiations over a
17 memorandum of agreement, memorandum of understanding, or other
18 supplemental agreement.

19 Violations of the procedures and criteria so negotiated may
20 be subject to the grievance procedure in the collective
21 bargaining agreement.



1 (e) Negotiations relating to contributions to the Hawaii
2 employer-union health benefits trust fund captive insurance
3 company fund shall be for the purpose of agreeing upon the
4 amounts which the State and counties shall contribute under
5 section 87A-32, toward the payment of the costs for a health
6 benefits plan, as defined in section 87A-1, and group life
7 insurance benefits, and the parties shall not be bound by the
8 amounts contributed under prior agreements; provided that
9 section 89-11 for the resolution of disputes by way of
10 arbitration shall not be available to resolve impasses or
11 disputes relating to the amounts the State and counties shall
12 contribute to the Hawaii employer-union health benefits trust
13 fund[~~-~~] captive insurance company fund."

14 SECTION 13. Section 89-11, Hawaii Revised Statutes, is
15 amended by amending subsection (g) to read as follows:

16 "(g) The decision of the arbitration panel shall be final
17 and binding upon the parties on all provisions submitted to the
18 arbitration panel. If the parties have reached agreement with
19 respect to the amounts of contributions by the State and
20 counties to the Hawaii employer-union health benefits trust fund
21 captive insurance company fund by the tenth working day after
22 the arbitration panel issues its decision, the final and binding



1 agreement of the parties on all provisions shall consist of the
2 panel's decision and the amounts of contributions agreed to by
3 the parties. If the parties have not 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 close of business on the
7 tenth working day after the arbitration panel issues its
8 decision, the parties shall have five days to submit their
9 respective recommendations for such contributions to the
10 legislature, if it is in session, and if the legislature is not
11 in session, the parties shall submit their respective
12 recommendations for such contributions to the legislature during
13 the next session of the legislature. In such event, the final
14 and binding agreement of the parties on all provisions shall
15 consist of the panel's decision and the amounts of contributions
16 established by the legislature by enactment, after the
17 legislature has considered the recommendations for such
18 contributions by the parties. It is strictly understood that no
19 member of a bargaining unit subject to this subsection shall be
20 allowed to participate in a strike on the issue of the amounts
21 of contributions by the State and counties to the Hawaii
22 employer-union health benefits trust fund captive insurance



1 company fund. The parties shall take whatever action is
2 necessary to carry out and effectuate the final and binding
3 agreement. The parties may, at any time and by mutual
4 agreement, amend or modify the panel's decision.

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

15 SECTION 14. Section 269-2, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Effective July 1, 2005, the chairperson of the
18 commission shall be paid a salary set at eighty-seven per cent
19 of the salary of the director of human resources development,
20 and each of the other commissioners shall be paid a salary equal
21 to ninety-five per cent of the chairperson's salary. The
22 commissioners shall be exempt from chapters 76 and 89 but shall



1 be members of the state employees retirement system and shall be
2 eligible to receive the benefits of any state or federal
3 employee benefit program generally applicable to officers and
4 employees of the State, including those under chapter [~~87A.~~]
5 _____.

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

8 SECTION 15. Section 323F-32, Hawaii Revised Statutes, is
9 amended by amending subsection (g) to read as follows:

10 "(g) Employees of Kahuku hospital shall be exempt from
11 chapters 76, [~~87A.~~] _____, 88, and 89, and shall not be considered
12 as employees of the State."

13 SECTION 16. Chapter 87A, Hawaii Revised Statutes, is
14 repealed.

15 SECTION 17. All rights, powers, functions, and duties of
16 the Hawaii employer-union health benefits trust fund are
17 transferred to the Hawaii employer-union health benefits trust
18 fund captive insurance company.

19 All employees who occupy civil service positions and whose
20 functions are transferred to the Hawaii employer-union health
21 benefits trust fund captive insurance company by this part shall
22 retain their civil service status, whether permanent or



1 temporary. Employees shall be transferred without loss of
2 salary, seniority (except as prescribed by applicable collective
3 bargaining agreement), retention points, prior service credit,
4 any vacation and sick leave credits previously earned, and other
5 rights, benefits, and privileges, in accordance with state
6 personnel laws and this part; provided that the employees
7 possess the minimum qualifications and public employment
8 requirements for the class or position to which transferred or
9 appointed, as applicable; provided further that subsequent
10 changes in status may be made pursuant to applicable civil
11 service and compensation laws.

12 Any employee who, prior to this part, is exempt from civil
13 service and is transferred as a consequence of this part; may
14 continue to retain the employee's exempt status, but shall not
15 be appointed to a civil service position as a consequence of
16 this part. An exempt employee who is transferred by this part
17 shall not suffer any loss of prior service credit, vacation or
18 sick leave credits previously earned, or other employee benefits
19 or privileges as a consequence of this part, provided that the
20 employees possess legal and public employment requirements for
21 the position to which transferred or appointed, as applicable;
22 provided further that subsequent changes in status may be made



1 pursuant to applicable employment and compensation laws. The
2 attorney-in-fact of the Hawaii employer-union health benefits
3 trust fund captive insurance company may prescribe the duties
4 and qualifications of such employees and fix their salaries
5 without regard to chapter 76, Hawaii Revised Statutes.

6 SECTION 18. All appropriations, records, equipment,
7 machines, files, supplies, contracts, books, papers, documents,
8 maps, and other personal property heretofore made, used,
9 acquired, or held by the Hawaii employer-union health benefits
10 trust fund relating to the functions transferred to the Hawaii
11 employer-union health benefits trust fund captive insurance
12 company shall be transferred with the functions to which they
13 relate.

14 SECTION 19. The members serving on the board of the Hawaii
15 employer-union health benefits trust fund on the effective date
16 of this part shall serve as the initial members of the Hawaii
17 employer-union health benefits trust fund captive insurance
18 company board established pursuant to section 3 and shall
19 continue to serve as members of the Hawaii employer-union health
20 benefits trust fund captive insurance company board until their
21 terms expire; provided that a member appointed by the governor



1 through the recommendation of the Hawaii Association of Counties
2 shall also serve on the board.

3 PART III

4 SECTION 20. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 21. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 22. This Act shall take effect on July 1, 2014.

13



Report Title:

Pulse Oximetry Screening; Congenital Heart Defects; Birthing Facilities; Newborns; Appropriation; EUTF; Captive Insurance

Description:

Requires birthing facilities to perform a pulse oximetry test or other medically accepted screening on newborns to screen for critical congenital heart defects. Appropriates funds for a program to conduct such screening and to the Hawaii Health Systems Corporation to conduct such screening at its facilities. Establishes the Hawaii Employer-Union Health Benefits Trust Fund Captive Insurance Company to effectively manage the administration and financing of the current and potential future other post employee benefit obligations of the state and county governments. (SB2194 HD2 PROPOSED)

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

