
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The purpose of this Act is to increase the use
2 tax rate paid by wholesalers and apply the amount of the
3 increase to reduce the unfunded liabilities of the Hawaii
4 employer-union trust fund and the employees' retirement system.

5 SECTION 2. Section 87A-42, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§87A-42 Other post-employment benefits trust. (a)
8 Notwithstanding sections 87A-31 and 87A-31.5, the board, upon
9 terms and conditions set by the board, shall establish and
10 administer a separate trust fund for the purpose of receiving
11 employer contributions that will prefund other post-employment
12 health and other benefit plan costs for retirees and their
13 beneficiaries. The separate trust fund shall meet the
14 requirements of the Government Accounting Standards Board
15 regarding other post-employment benefits trusts. The board
16 shall establish and maintain a separate account for each public
17 employer within the separate trust fund to accept and account



1 for each public employer's contributions. Employer
2 contributions to the separate trust fund shall be irrevocable,
3 all assets of the fund shall be dedicated exclusively to
4 providing health and other benefits to retirees and their
5 beneficiaries, and assets of the fund shall not be subject to
6 appropriation for any other purpose and shall not be subject to
7 claims by creditors of the employers or the board or plan
8 administrator. The board's powers under section 87A-24 shall
9 also apply to the fund established pursuant to this section.

10 (b) Public employer contributions shall be paid into the
11 fund in each fiscal year, and commencing with the 2018-2019
12 fiscal year, the amount of the annual public employer
13 contribution shall be equal to the amount of the annual required
14 contribution, as determined by an actuary retained by the board.

15 (c) In any fiscal year subsequent to the 2017-2018 fiscal
16 year in which the state public employer's contributions into the
17 fund are less than the amount of the annual required
18 contribution, the amount that represents the excess of the
19 annual required contribution over the state public employer's
20 contributions shall be deposited into the appropriate account of
21 the separate trust fund from a portion of all general excise tax



1 revenues collected by the department of taxation under section
2 237-31.

3 If any general excise tax revenues are deposited into the
4 separate trust fund in any fiscal year as a result of this
5 subsection, the director of finance shall notify the legislature
6 and governor whether the general fund expenditure ceiling for
7 that fiscal year would have been exceeded if those revenues had
8 been legislatively appropriated instead of deposited without
9 appropriation into the trust fund. The notification shall be
10 submitted within thirty days following the end of the applicable
11 fiscal year.

12 (d) In any fiscal year subsequent to the 2017-2018 fiscal
13 year in which a county public employer's contributions into the
14 fund are less than the amount of the annual required
15 contribution, the amount that represents the excess of the
16 annual required contribution over the county public employer's
17 contributions shall be deposited into the fund from a portion of
18 all transient accommodations tax revenues collected by the
19 department of taxation under section 237D-6.5(b)(3). The
20 director of finance shall deduct the amount necessary to meet
21 the county public employer's annual required contribution from



1 the revenues derived under section 237D-6.5(b)(3) and transfer
2 the amount to the board for deposit into the appropriate account
3 of the separate trust fund.

4 (e) In any fiscal year subsequent to fiscal year 2017-2018
5 in which a public employer's contributions into the fund are
6 less than the amount of the annual required contribution and the
7 public employer is not entitled to transient accommodations tax
8 revenues sufficient to satisfy the total amount of the annual
9 required contribution, the public employer's contributions shall
10 be deposited into the fund from portions of any other revenues
11 collected on behalf of the public employer or held by the State.
12 The director of finance shall deduct the amount necessary to
13 meet the public employer's annual required contribution from any
14 revenues collected on behalf of the public employer held by the
15 State and transfer the amount to the board for deposit into the
16 appropriate account of the separate trust fund.

17 (f) For the purposes of this section, "annual required
18 contribution" means a public employer's required contribution to
19 the trust fund established in this section that is sufficient to
20 cover:



1 (1) The normal cost, which is the cost of other post-
2 employment benefits attributable to the current year
3 of service; and

4 (2) An amortization payment, which is a catch-up payment
5 for past service costs to fund the unfunded actuarial
6 accrued liability over the next thirty years.

7 (g) Nothing in this section shall preclude the deposit of
8 additional funds pursuant to section 238-14."

9 SECTION 3. Section 88-114, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§88-114 Pension accumulation fund. (a) The pension
12 accumulation fund shall be the fund in which shall be
13 accumulated all contributions made by the State and any county
14 and all income from investments and from which shall be paid all
15 benefits, including the bonus authorized under section 88-11,
16 and other than those benefits [~~which~~] that are specifically
17 payable from other funds.

18 (b) Nothing in this section shall preclude the deposit of
19 additional funds pursuant to section 238-14."

20 SECTION 4. Section 238-2, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§238-2 Imposition of tax on tangible personal property;
2 exemptions. There is hereby levied an excise tax on the use in
3 this State of tangible personal property [~~which~~] that is
4 imported by a taxpayer in this State whether owned, purchased
5 from an unlicensed seller, or however acquired for use in this
6 State. The tax imposed by this chapter shall accrue when the
7 property is acquired by the importer or purchaser and becomes
8 subject to the taxing jurisdiction of the State. The rates of
9 the tax hereby imposed and the exemptions thereof are as
10 follows:

- 11 (1) If the importer or purchaser is licensed under chapter
12 237 and is:
- 13 (A) A wholesaler or jobber importing or purchasing
14 for purposes of sale or resale; or
- 15 (B) A manufacturer importing or purchasing material
16 or commodities [~~which~~] that are to be
17 incorporated by the manufacturer into a finished
18 or saleable product (including the container or
19 package in which the product is contained)
20 wherein it will remain in [~~such~~] a form [~~as to~~
21 be] that is perceptible to the senses, and which



1 finished or saleable product is to be sold in
2 such a manner as to result in a further tax on
3 the activity of the manufacturer as the
4 manufacturer or as a wholesaler, and not as a
5 retailer,

6 there shall be no tax; provided that if the
7 wholesaler, jobber, or manufacturer is also engaged in
8 business as a retailer (so classed under chapter 237),
9 paragraph (2) shall apply to the wholesaler, jobber,
10 or manufacturer, but the director of taxation shall
11 refund to the wholesaler, jobber, or manufacturer, in
12 the manner provided under section 231-23(c) [~~such~~] the
13 amount of tax as the wholesaler, jobber, or
14 manufacturer shall, to the satisfaction of the
15 director, establish to have been paid by the
16 wholesaler, jobber, or manufacturer to the director
17 with respect to property which has been used by the
18 wholesaler, jobber, or manufacturer for the purposes
19 stated in this paragraph;

- 20 (2) If the importer or purchaser is licensed under chapter
21 237 and is:



- 1 (A) A retailer or other person importing or
2 purchasing for purposes of sale or resale, not
3 exempted by paragraph (1);
- 4 (B) A manufacturer importing or purchasing material
5 or commodities [~~which~~] that are to be
6 incorporated by the manufacturer into a finished
7 or saleable product (including the container or
8 package in which the product is contained)
9 wherein it will remain in [~~such~~] a form [~~as to~~
10 ~~be~~] that is perceptible to the senses, and which
11 finished or saleable product is to be sold at
12 retail in this State, in such a manner as to
13 result in a further tax on the activity of the
14 manufacturer in selling [~~such~~] the products at
15 retail;
- 16 (C) A contractor importing or purchasing material or
17 commodities [~~which~~] that are to be incorporated
18 by the contractor into the finished work or
19 project required by the contract and which will
20 remain in [~~such~~] the finished work or project in



1 [~~such~~] a form [~~as to be~~] that is perceptible to
2 the senses;

3 (D) A person engaged in a service business or calling
4 as defined in section 237-7, or a person
5 furnishing transient accommodations subject to
6 the tax imposed by section 237D-2, in which the
7 import or purchase of tangible personal property
8 would have qualified as a sale at wholesale as
9 defined in section 237-4(a)(8) had the seller of
10 the property been subject to the tax in chapter
11 237; or

12 (E) A publisher of magazines or similar printed
13 materials containing advertisements, when the
14 publisher is under contract with the advertisers
15 to distribute a minimum number of magazines or
16 similar printed materials to the public or
17 defined segment of the public, whether or not
18 there is a charge to the persons who actually
19 receive the magazines or similar printed
20 materials,



1 the tax shall be [~~one-half-of-one~~] one and one-half
 2 per cent of the purchase price of the property, if the
 3 purchase and sale are consummated in Hawaii; or, if
 4 there is no purchase price applicable thereto, or if
 5 the purchase or sale is consummated outside of Hawaii,
 6 then [~~one-half-of-one~~] one and one-half per cent of
 7 the value of [~~such~~] the property; and

8 (3) In all other cases, four per cent of the value of the
 9 property.

10 For purposes of this section, tangible personal property is
 11 property that is imported by the taxpayer for use in this State,
 12 notwithstanding the fact that title to the property, or the risk
 13 of loss to the property, passes to the purchaser of the property
 14 at a location outside this State."

15 SECTION 5. Section 238-14, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "§238-14 Taxes state realizations. (a) All taxes
 18 collected under this chapter shall be state realizations.

19 (b) Beginning on July 1, 2015, the revenues realized by
 20 the State from the use tax imposed pursuant to section 238-2(2)
 21 shall be allocated as follows:



- 1 (1) Thirty-three and one-third per cent of the revenues
2 shall be deposited to the credit of the general fund;
- 3 (2) Thirty-three and one-third per cent of the revenues
4 shall be deposited into the separate trust fund
5 established under section 87A-42; provided that the
6 amount to be deposited into the separate trust fund
7 shall be credited against the State's public employer
8 contribution liability and be in addition to and shall
9 not replace the State's required public employer
10 contribution; and
- 11 (3) Thirty-three and one-third per cent of the revenues
12 shall be deposited into the pension accumulation fund
13 established under section 88-114 and shall be credited
14 against the State's public employer contribution
15 liability; provided that the amount deposited into the
16 pension accumulation fund shall be in addition to and
17 shall not replace the required contribution of the
18 State."

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



H.B. NO. 1137

1 SECTION 7. This Act shall take effect on July 1, 2015.

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INTRODUCED BY:

Celi-K.Y. Amy
[Signature]
[Signature]
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JAN 28 2015



H.B. NO. 1137

Report Title:

Use Tax; Post-Employment Benefits Trust; Pension Accumulation Fund

Description:

Increases use tax paid by wholesalers from .5% to 1.5% by one per cent and applies the increase to reduce the State's unfunded liabilities for the EUTF and ERS.

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