
A BILL FOR AN ACT

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST
FUND.

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

1 SECTION 1. Chapter 87A, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§87A- Fiduciary duties; prohibited transactions. (a)

5 A fiduciary of the trust fund shall comply, with respect to a
6 plan, with all fiduciary duties imposed on fiduciaries under
7 title 29 United States Code sections 1001-1191c, as amended, and
8 related regulations.

9 (b) All fiduciaries of the trust fund shall discharge
10 their duties with respect to a plan solely in the interest of
11 the employee-beneficiaries and:

12 (1) For the exclusive purpose of:

13 (A) Providing benefits to employee-beneficiaries; and

14 (B) Defraying reasonable expenses of administering
15 the plan;



1 (2) With the care, skill, prudence, and diligence under
2 the circumstances that a prudent person acting in a
3 similar capacity and familiar with those matters would
4 use in the conduct of an enterprise of a similar
5 character and with like aims;

6 (3) Diversify the investments of the plan so as to
7 minimize the risk of large losses, unless, under the
8 circumstances, it is clearly prudent not to do so; and

9 (4) Act in accordance with the documents and instruments
10 governing the plan insofar as such documents and
11 instruments are consistent with the provisions of this
12 chapter.

13 (c) In addition to any liability that a fiduciary may have
14 under this chapter, a fiduciary with respect to a plan shall be
15 liable for a breach of fiduciary responsibility of another
16 fiduciary with respect to the same plan in the following
17 circumstances:

18 (1) If the fiduciary participates knowingly in, or
19 knowingly undertakes to conceal, an act of omission of
20 the other fiduciary, knowing that act or omission is a
21 breach;



1 (2) If, by the fiduciary's failure to comply with
2 subsection (a) or (b), the fiduciary has enabled the
3 other fiduciary to commit a breach; or

4 (3) If the fiduciary has knowledge of the breach by the
5 other fiduciary, unless the other fiduciary makes
6 reasonable efforts under the circumstances to remedy
7 the breach.

8 If the assets of the plan are held by two or more trustees,
9 each shall use reasonable care to prevent a co-trustee from
10 committing a breach, and each shall be responsible for jointly
11 managing and controlling the assets of the plan.

12 (d) A fiduciary shall not cause a plan to engage in a
13 transaction, if the fiduciary knows or should know that the
14 transaction constitutes a direct or indirect:

15 (1) Sale or exchange, or leasing, of any property between
16 the plan and a party in interest;

17 (2) Lending of money or other extension of credit between
18 the plan and a party in interest;

19 (3) Furnishing of goods, services, or facilities between
20 the plan and a party in interest; or



1 (4) Transfer to, or use by or for the benefit of, a party
2 in interest, of any assets of the plan.

3 (e) A fiduciary shall not:

4 (1) Deal with the assets of the plan in the fiduciary's
5 own interest or for the fiduciary's own personal
6 account;

7 (2) In the fiduciary's individual capacity or in any other
8 capacity act in any transaction involving the plan on
9 behalf of a party, or represent a party, whose
10 interests are adverse to the interests of the plan or
11 the interests of its employee-beneficiaries; or

12 (3) Receive any consideration for the fiduciary's own
13 personal account from any party dealing with the plan
14 in connection with a transaction involving the assets
15 of the plan.

16 For the purposes of this section, a "fiduciary" or
17 "fiduciary of the trust fund" shall mean a member of the board
18 of trustees."

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act shall take effect on January 1, 2050.



Report Title:

Employer-union Health Benefits Trust Fund; Fiduciary Duties;
Prohibited Transactions; Liabilities; Trustees

Description:

Creates a fiduciary duty on Employer-Union Health Benefits Trust Fund trustees. Prohibits transactions where the trustee has a conflict of interest. Establishes liabilities for breach of fiduciary duty. Takes effect 1/1/2050. (SD1)

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