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# A BILL FOR AN ACT

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

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

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

4           "§87A-       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 or 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 managed by two or more  
9       trustees, each shall use reasonable care to prevent a co-trustee  
10      from committing a breach, and each shall be responsible for  
11      jointly 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. (SD2)

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