



GOV. MSG. NO. 1175

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

JUN 17 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on JUN 17 2022, the following bill was signed into law:

SB3072 SD2 HD1

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

ACT 075

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

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

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

1 SECTION 1. The legislature finds that this Act is
2 necessary to enable the Hawaii employer-union health benefits
3 trust fund (trust fund) to efficiently maintain the
4 confidentiality of information relating to alternative
5 investments such as investments in private equity, private
6 credit, and private real estate funds, consistent with
7 competitive investment market best practices. This will help
8 ensure that the trust fund will not be disadvantaged as a
9 competitive investor due to the public records disclosure
10 requirements of chapter 92F, Hawaii Revised Statutes.
11 To address the trust fund's unfunded liability, the trust
12 fund, as a prudent investor, engages in diversified investment,
13 including high-yield private alternative investments. Due
14 diligence into these investments requires the trust fund to
15 invest time and money to acquire and analyze detailed
16 proprietary and confidential information regarding the projected



1 performance of each fund. If the trust fund is required to
2 disclose this confidential information, the trust fund is
3 disadvantaged as a competitive investor. Competing investors
4 would be able to acquire, at no cost, the trust fund's
5 investment intelligence, resulting in oversubscription of the
6 trust fund's best investments, reducing the trust fund's access.
7 Further, to the extent that the trust fund may be required to
8 disclose information that the investment funds require to be
9 kept confidential, some high-performing funds are likely, based
10 on their past practices, to be deterred from allowing the trust
11 fund to invest with them.

12 To serve the public interest in monitoring the trust fund's
13 investment performance, the trust fund already makes publicly
14 available non-confidential aggregate performance data for the
15 entire trust fund investment portfolio in its quarterly
16 performance report, which includes: the name of asset or
17 strategy and the rate of return for the quarter, fiscal year-to-
18 date, one year, three years, five years, ten years, and
19 inception to date.

20 The purpose of this Act is to identify certain types of
21 alternative investment fund information, the disclosure of which



1 would likely put the trust fund at a competitive disadvantage,
2 and categorically exempt those categories of information from
3 disclosure under chapter 92F, Hawaii Revised Statutes,
4 consistent with market best practices. This Act mirrors Act 71,
5 Session Laws of Hawaii 2021, providing the employees' retirement
6 system of the State of Hawaii the same exemptions.

7 SECTION 2. Section 87A-31, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§87A-31 Trust fund; purpose[-]; disclosure of**
10 **information.** (a) The fund shall be used to provide employee-
11 beneficiaries and dependent-beneficiaries with health and other
12 benefit plans, and to pay administrative and other expenses of
13 the fund. All assets of the fund are and shall be dedicated to
14 providing health and other benefits plans to the employee-
15 beneficiaries and dependent-beneficiaries in accordance with the
16 terms of those plans and to pay administrative and other
17 expenses of the fund, and shall be used for no other purposes
18 except for those set forth in this section.

19 (b) The fund, including any earnings on investments, and
20 rate credits or reimbursements from any carrier or self-insured
21 plan and any earning or interest derived therefrom, may be used



1 to stabilize health and other benefit plan rates; provided that
2 the approval of the governor and the legislature shall be
3 necessary to fund administrative and other expenses necessary to
4 effectuate these purposes.

5 (c) The fund may be used to provide group life insurance
6 benefits to employees to the extent that contributions are
7 provided for group life insurance benefits in sections 87A-32
8 and 87A-37.

9 (d) The fund may assist the State and the counties to
10 implement and administer cafeteria plans authorized under
11 ~~[Title]~~ title 26 United States Code section 125, the Internal
12 Revenue Code of 1986, as amended, and section 78-30.

13 (e) At the discretion of the board, some or all of the
14 fund may be used as a reserve against or to pay the fund's
15 future costs of providing health and other benefits plans
16 established under sections 87A-23 and 87A-37 and any other
17 benefits plans the board establishes for retired employees and
18 their beneficiaries. The board may create separate funds within
19 the fund for this purpose. Each separate fund shall be subject
20 to all ~~[of the]~~ provisions of this chapter.



1 (f) If after commencing the reimbursement of medicare part
2 B premiums in section 87A-23, or any other debt payable under
3 this chapter, the fund cannot locate the employee-beneficiary or
4 other person or entity entitled to payment, further payment
5 shall be forfeited to the fund if the total amount is less than
6 \$500 and shall not escheat under the laws of any state; provided
7 that the forfeited payment shall be restored if the employee-
8 beneficiary, or other person or entity entitled to the forfeited
9 payment makes a proper application to the fund for restoration
10 of the benefit no later than ten years following the last valid
11 reimbursement or payment. All applications for restoration of a
12 forfeited benefit or payment shall be in a form satisfactory to
13 the fund. For forfeited benefits or payments in existence on
14 June 30, 2017, the ten-year time limitation on claiming the
15 benefits or payments shall commence on July 1, 2017.

16 (g) The exemptions from disclosure of information pursuant
17 to chapter 92F set forth in section 88-103.5(c) through (e)
18 shall apply to the disclosure of information relating to the
19 fund's alternative investments; provided that references to the
20 "system" in section 88-103.5(c) and (e) shall be replaced with
21 the "fund" for purposes of the fund's alternative investments."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.



S.B. NO. 3072
S.D. 2
H.D. 1

APPROVED this 17 day of June , 2022


A handwritten signature in black ink, appearing to read "David I. Byrne". The signature is fluid and cursive, with a large initial "D" and a stylized "I".


GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: May 5, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2022.


President of the Senate


Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE
STATE OF HAWAII

Date: April 6, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives