

A Bill for an Act Relating to Government Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In 2004, the Government Accounting Standards Board issued statement numbers 43 and 45. These new statements establish uniform financial reporting standards for the reporting of retiree health and other post-employment benefits by state and local governments. Statement number 43 (plan for reporting) is effective for the fiscal year ending June 30, 2007. Statement number 45 (for employers) is effective for the fiscal year ending June 30, 2008. Statement numbers 43 and 45 will require, among other things, that the State's financial statements show:

- (1) The actuarial present value of the total future cost of providing retiree health benefits to the State's employees, retirees, and their beneficiaries under the terms of the State's retiree health benefits plans;
- (2) The annual contributions that would be required for the State to amortize that total future cost over a thirty-year period; and
- (3) The State's status and progress in funding or amortizing that total future cost.

One of the underlying purposes of statement numbers 43 and 45 is to have public employers report their liability for retiree health benefits and other post-employment benefits on an accrual rather than pay-as-you-go basis.

Under statement numbers 43 and 45, a retiree health benefits or other post-employment benefits plan that is administered as a trust or equivalent arrangement may perform most of the work that these new statements require with respect to a public employer's reporting of retiree health and other post-employment benefits. In addition, statement numbers 43 and 45 provide that a public employer's contributions to a retiree health benefits plan or other post-employment benefits plan will reduce its total liability for retiree health benefits or other post-employment benefits only if those contributions are made to a plan that is administered as a trust or equivalent arrangement.

The purpose of this Act is to amend chapter 87A, Hawaii Revised Statutes, to clarify that the Hawaii employer-union health benefits trust fund is administered as a trust or equivalent arrangement as that term is used in statement numbers 43 and 45. This will simplify the burdens placed on the State and counties regarding compliance with the financial reporting standards of statement numbers 43 and 45. In addition, it will ensure that all contributions made by the State and counties to the Hawaii employer-union health benefits trust fund for retiree health benefits plans will be credited against the State's and counties' liabilities for the cost of such plans in their financial statements.

One of the conditions that other post-employment benefits plans must meet in order to be administered as a trust or equivalent arrangement is that the employer's contributions to the plan are irrevocable. This Act clarifies that the State's and counties' contributions to the Hawaii employer-union health benefits trust fund, as well as all resulting assets therein, are irrevocably dedicated to the purposes stated in section 87A-31, Hawaii Revised Statutes, and shall not be subject to future appropriation for other purposes. This Act is not meant to bind or require the State or counties to make any particular level of contributions to the Hawaii employer-union health benefits trust fund now or in the future, but only to ensure that contributions actually made are irrevocable.

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

“§87A- Employer contributions irrevocable. Notwithstanding any law to the contrary, all of the monthly contributions that the State and counties make to the fund under sections 87A-32, 87A-33, 87A-34, 87A-35, 87A-36, and 87A-37, and all other contributions that the State and counties may make to the fund, shall be irrevocable; provided that this shall not preclude the fund from returning contributions or payments made by the State or any county under a mistake of fact within one year after the payment of the contributions or payments.”

SECTION 3. Section 87A-30, Hawaii Revised Statutes, is amended to read as follows:

“[§87A-30] Hawaii employer-union health benefits trust fund; establishment. There is established outside the state treasury, a trust fund to be known as the “Hawaii Employer-Union Health Benefits Trust Fund.”¹ The fund shall consist of contributions, interest, income, dividends, refunds, rate credits, and other returns. It is hereby declared that any and all sums contributed or paid from any source to the fund created by this part, and all assets of the fund including any and all interest and earnings on the same, are and shall be held in trust by the board for the exclusive use and benefit of the employee-beneficiaries and dependent-beneficiaries and shall not be subject to appropriation for any other purpose whatsoever. The fund shall be under the control of the board and placed under the department of budget and finance for administrative purposes.”

SECTION 4. Section 87A-31, Hawaii Revised Statutes, is amended to read as follows:

“[§87A-31] Trust fund; purpose. (a) The fund shall be used to provide employee-beneficiaries and dependent-beneficiaries with health and other benefit plans, and to pay administrative and other expenses of the fund. All assets of the fund are and shall be dedicated to providing health and other benefits plans to the employee-beneficiaries and dependent-beneficiaries in accordance with the terms of those plans and to pay administrative and other expenses of the fund, and shall be used for no other purposes except for those set forth in this section.

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

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

(d) The fund may assist the State and the counties to implement and administer cafeteria plans authorized under Title 26 United States Code section 125, the Internal Revenue Code of 1986, as amended, and part II of chapter 78.

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

ACT 57

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 6. This Act shall take effect on July 1, 2006.

(Approved May 1, 2006.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.