

S.B. NO. 2701

JAN 25 2012

A BILL FOR AN ACT

RELATING TO EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.

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

1 SECTION 1. Section 87A-1, Hawaii Revised Statutes, is
2 amended as follows:

3 (1) By adding a new definition to be appropriately
4 inserted and to read as follows:

5 ""Credited service" means service as an officer or employee
6 paid by the State or county, and also service during the period
7 of leave of absence or exchange if the individual is paid by the
8 State or county during the leave of absence or exchange, and
9 service during the period of unpaid leave of absence or exchange
10 if the individual is engaged in the performance of a
11 governmental function or if the unpaid leave of absence is an
12 approved leave of absence for professional improvement."

13 (2) By amending the definitions of "employee" and "part-
14 time, temporary, and seasonal or casual employee" to read as
15 follows:

16 ""Employee" means an employee or officer of the State,
17 county, or legislature,

18 (1) Including:

S.B. NO. 2701

- 1 (A) An elective officer;
- 2 [~~(B)~~] ~~A per diem employee;~~
- 3 ~~(C)~~] (B) An officer or employee under an
- 4 authorized leave of absence;
- 5 [~~(D)~~] (C) An employee of the Hawaii national
- 6 guard although paid from federal funds;
- 7 [~~(E)~~] (D) A retired member of the employees'
- 8 retirement system; the county pension
- 9 system; or the police, firefighters, or
- 10 bandsmen pension system of the State or
- 11 county;
- 12 [~~(F)~~] (E) A salaried and full-time member of a
- 13 board, commission, or agency appointed
- 14 by the governor or the mayor of a county;
- 15 and
- 16 [~~(G)~~] (F) A person employed by contract for a
- 17 period not exceeding one year, where the
- 18 director of human resources development,
- 19 personnel services, or civil service has
- 20 certified that the service is essential or
- 21 needed in the public interest and that,
- 22 because of circumstances surrounding its

S.B. NO. 2701

1 fulfillment, personnel to perform the
2 service cannot be obtained through normal
3 civil service recruitment procedures,

4 (2) But excluding:

5 (A) A designated beneficiary of a retired member
6 of the employees' retirement system; the
7 county pension system; or the police,
8 firefighters, or bandsmen pension system of
9 the State or county;

10 (B) Except as allowed under paragraph (1)(G), a
11 person employed temporarily on a fee or
12 contract basis; and

13 (C) A part-time, temporary, and seasonal or
14 casual employee.

15 "Part-time, temporary, and seasonal or casual employee"
16 means a person employed for fewer than three months [~~and~~] or
17 whose employment is less than one-half of a full-time equivalent
18 position."

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

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S.B. NO. 2701

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

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INTRODUCED BY: 

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BY REQUEST

S.B. NO. 2701

Report Title:

Employer-Union Health Benefits Trust Fund; Definitions

Description:

Amends section 87A-1, Hawaii Revised Statutes, to add a new definition of "credited service" and to clarify the definitions of "employee" and "part-time, temporary, and seasonal or casual employee."

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.

PURPOSE: To add a definition of "credited service" and to clarify the definitions of "employee" and "part-time, temporary, and seasonal or casual employee."

MEANS: Amend section 87A-1, Hawaii Revised Statutes.

JUSTIFICATION: Section 87A-1, Hawaii Revised Statutes (HRS), currently reads in pertinent part, "'Part-time, temporary, and seasonal or casual employee' means a person employed for fewer than three months and whose employment is less than one-half of a full-time equivalent position."

The Hawaii Public Employees Health Fund (PEHF) was the predecessor to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF). The laws governing the PEHF originally excluded from the definition of "employee" a person "hired on a part-time, limited-term, or provisional basis" (Act 146, 1961 Haw. Sess. Laws 191-92). In 1978, that portion of the definition was amended to exclude a person "employed for less than three months and whose employment is less than one-half of a full-time equivalent position (Act 194, 1978 Haw. Sess. Laws 400). The report of the Senate Committee on Ways and Means indicates that the intent of the amendment was to "grant health fund benefits to all persons employed for at least three months and whose jobs are equivalent to or exceed one-half of full-time equivalent (FTE) positions" (Stand.

Comm. Rep. No. 709-78, 1978 Hawaii Senate Journal at 1084).

To achieve the Legislature's intent to grant health fund benefits to all persons who are employed for at least three months and whose jobs exceed one-half of an FTE, the statute should have more clearly excluded under the definition of "employee" a person who is employed for less than three months or whose job is less than one-half of an FTE. This is how the statute has been interpreted by the EUTF, and the proposed amendment would merely clarify that.

Additionally, in 1984, the laws governing the PEHF were amended to specifically address contributions for employees who retire after June 30, 1984, with "at least five years but fewer than ten years of credited service, excluding sick leave" (Act 252, 1984 Haw. Sess. Laws 543). The purpose of the amendment was to "limit the health benefits contributions by public employers for employee-beneficiaries who retire with at least five but less than ten years of credited service to one-half of the statutorily specified amount" in order to address the "rising cost of public employer contributions" (Conf. Comm. Rep. No. 84-84, Hawaii Senate Journal at 965). However, the term "credited service" was not defined. Since then, the law has been changed several times, and chapter 87A, HRS, currently includes several references to "credited service" (e.g., sections governing State and county contributions, sections 87A-33, 87A-34, 87A-35, and 87A-36), yet that term remains undefined.

The proposed amendment defines "credited service" using language similar to that used to define "service" in chapter 88, HRS, governing pension and retirement systems (section 88-21, HRS).

Finally, since the PEHF was created in 1961, the definition of "employee" has included reference to a "per diem employee," yet that term has never been defined. Chapter 88, HRS, which governs pension and retirement systems, defines "per diem worker" as a "person employed and compensated on an hourly or daily basis" (section 88-21, HRS). However, in 1969, the Legislature amended the laws governing the retirement system, including elimination of provisions governing "Service while per diem employee" and "Per diem employee attaining monthly status" (Act 110, 1969 Haw. Sess. Laws 94.) The Senate Committee on Public Employment explained that these sections were "obsolete, having been enacted to provide special treatment for per diem employees during specific periods of time. Per diem positions were abolished by law January 1, 1960" and that all per diem service rendered at any time in the past is treated as "prior service." (Stand. Comm. Rep. No. 127, 1969 Hawaii Senate Journal at 916). Accordingly, rather than attempt to amend chapter 87A, HRS, to include a definition for "per diem employee" the proposed amendment merely deletes reference to that term as it is obsolete.

Impact on the public: The proposed amendment is intended to clarify the definitions in chapter 87A, HRS, to assist the public in understanding benefits provided for therein.

Impact on the department and other agencies: The impact should be minimal, as the EUTF currently interprets the definition of "Part-time, temporary, and seasonal or casual employee" in the manner the proposed amendment seeks to clarify; similarly with respect to "credited service"; and the term "per diem" employee appears obsolete and can be addressed under the chapter's other definitions of "employee."

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Hawaii Employer-Union Health Benefits Trust
Fund, Department of Budget and Finance.

EFFECTIVE DATE: Upon approval.