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## A BILL FOR AN ACT

RELATING TO UNFUNDED LIABILITIES.

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

1           SECTION 1. The legislature finds that as of July 2, 2015,  
2 the unfunded portion of the actuarial accrued liability of the  
3 Hawaii employer-union health benefits trust fund (EUTF) was  
4 \$11,772,008,000. This is \$969,745,000 more than the total  
5 revenues for the State for fiscal year 2015.

6           To address this unfunded liability, Act 268, Session Laws  
7 of Hawaii 2013, requires the State and counties to prefund other  
8 post-employment health and other benefit plan costs for retirees  
9 and their beneficiaries by making annual contributions to the  
10 other post-employment benefits trust fund (OPEB trust fund).  
11 State, county, and other public employers' annual contributions  
12 to the OPEB trust fund for fiscal year 2017 will total  
13 \$306,777,000. Commencing in 2019 and continuing for the next  
14 thirty years, the contribution amount will ramp up to an  
15 estimated \$500,000,000 per year.

16           Meanwhile, the State, counties, and other public employers  
17 are also required to make payments to cover a portion of pay-as-



1 you-go EUTF costs. This includes premium costs which have  
2 increased from \$505,000,000 in fiscal year 2004 to about  
3 \$1,006,000,000 in fiscal year 2016. Clearly, given current and  
4 projected revenues, the State and the counties cannot afford to  
5 both prefund and pay-as-you-go until 2049. A more affordable  
6 and less painful solution is necessary.

7 To ease the fiscal pressure on public employers, Act 30,  
8 Session Laws of Hawaii 2016, allows the OPEB trust fund to  
9 invest in asset classes that mirror those of the employees'  
10 retirement system, thereby maximizing returns. This is a step  
11 in the right direction; however, much more needs to be done.

12 At first glance, strategies that could address the unfunded  
13 liabilities crisis include:

- 14 (1) Raising revenues by increasing taxes;
- 15 (2) Reducing benefits to state and county employees;
- 16 (3) Reducing the public employment workforce; or
- 17 (4) A combination of any of the above.

18 These strategies are not feasible and if implemented will cause  
19 several new problems. Raising the general excise tax is viewed  
20 as a regressive policy that disproportionately impacts those who  
21 can least afford it. Raising property taxes may leave property



1 owners and landlords feeling unfairly targeted and these tax  
2 increases will likely be passed on to property renters. Any  
3 reduction in public employment benefits would be unfair to  
4 public employees, retirees, and their dependents who were  
5 promised health care benefits under the terms of their  
6 employment. Finally, reducing the public employment workforce  
7 may adversely impact government operations, the provision of  
8 essential public services, and the state economy.

9 Survival and taking control of our destiny is the goal of  
10 this Act. The future of our children and grandchildren depends  
11 on sound fiscal planning, which includes stabilizing the EUTF to  
12 achieve savings to support state and county needs.

13 Accordingly, the purpose of this Act is to:

- 14 (1) Cap public employer contributions to the OPEB trust  
15 fund once the separate accounts for each public  
16 employer have a combined subaccount balance of at  
17 least \$2,000,000,000. Most state governments follow a  
18 pay-as-you-go approach and prefunding of post-  
19 employments benefits is not mandated by the other  
20 post-employment benefits standards set forth by the  
21 Governmental Accounting Standards Board; and



1           (2) Thereafter, transfer any investment income and  
2                   interest from the OPEB trust fund to a newly  
3                   established rate stabilization reserve fund.

4           The rate stabilization reserve fund established by this Act  
5 will serve as a contingency fund that stabilizes the EUTF into  
6 the future by providing a reserve that could subsidize the  
7 increasing costs of providing health and other benefit plans for  
8 retirees and their beneficiaries. The EUTF projects a seven per  
9 cent investment return on funds in the OPEB trust fund, which  
10 amounts to an estimated \$140,000,000 that will be deposited into  
11 the rate stabilization reserve fund each year.

12           Pursuant to section 37-69, Hawaii Revised Statutes, every  
13 odd-numbered year the governor is required to prepare a six-year  
14 program and financial plan for the State encompassing all state  
15 programs. By not requiring OPEB prefunding through 2049, this  
16 Act will lead to a more balanced six-year program and financial  
17 plan and will free up moneys for important state, county, and  
18 other public employee services, projects, and needs. This could  
19 include, for example, providing funds for the employee  
20 retirement system, labor costs of collective bargaining units,



1 state road repairs, the city and county of Honolulu's rail  
2 transit system, and other pressing needs.

3 The purpose of this Act is to, among other things:

- 4 (1) Provide contingency funds for the EUTF by establishing  
5 a rate stabilization reserve fund to provide reserve  
6 funding to stabilize the Hawaii employer-union health  
7 benefits trust fund at times when that trust fund has  
8 insufficient moneys to cover the costs of providing  
9 health and other benefits plans for retirees and their  
10 beneficiaries; and
- 11 (2) Stop prefunding of the required annual contributions  
12 to the other post-employment benefits trust fund once  
13 the separate accounts for each public employer within  
14 the separate trust fund has a combined balance of at  
15 least \$2,000,000,000.

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

19 "§87A- Rate stabilization reserve fund; establishment;  
20 purpose. (a) There is established a rate stabilization reserve



1 fund to be placed within the employer-union health benefits  
2 trust fund for administrative purposes.

3 (b) The rate stabilization reserve fund may cover the  
4 increasing costs of providing health and other benefit plans for  
5 retirees and their beneficiaries as required by this chapter. A  
6 separate account for each public employer shall be established  
7 and maintained to accept and account for each public employer's  
8 contributions. Unless otherwise specified by law, the rate  
9 stabilization reserve fund shall not be subject to appropriation  
10 for any purpose and shall not be subject to claims by creditors  
11 of employers or the board.

12 (c) The rate stabilization reserve fund shall consist of:

13 (1) Moneys transferred from the Hawaii employer-union  
14 health benefits trust fund established by section 87A-  
15 30 and the other post-employment benefits trust fund  
16 established by section 87A-42;

17 (2) Interest from the separate trust fund established to  
18 prefund other post-employment health and other  
19 benefits plan costs for retirees and their  
20 beneficiaries pursuant to section 87A-42 and interest  
21 from the rate stabilization reserve fund; and



1        (3) Appropriations from the legislature.

2        (d) The rate stabilization reserve fund shall meet the  
3 requirements of the Governmental Accounting Standards Board  
4 regarding employment benefits trusts."

5        SECTION 3. Section 87A-31, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7        "~~(b) [The fund, including any earnings on investments, and~~  
8 ~~rate credits or reimbursements from any carrier or self-insured~~  
9 ~~plan and any earning or interest derived therefrom, may be used~~  
10 ~~to stabilize health and other benefit plan rates; provided that~~  
11 ~~the approval of the governor and the legislature shall be~~  
12 ~~necessary to fund administrative and other expenses necessary to~~  
13 ~~effectuate these purposes.]~~ All unencumbered and unexpended  
14 moneys in excess of \$2,000,000,000 remaining in the fund at the  
15 end of each fiscal year shall be transferred to the rate  
16 stabilization reserve fund established in section 87A- ."

17        SECTION 4. Section 87A-42, Hawaii Revised Statutes, is  
18 amended as follows:

19        1. By amending subsections (a) and (b) to read:

20        "(a) Notwithstanding sections 87A-31 and 87A-31.5, the  
21 board, upon terms and conditions set by the board, shall



1 establish and administer a separate trust fund for the purpose  
2 of receiving employer contributions that will prefund other  
3 post-employment health and other benefit plan costs for retirees  
4 and their beneficiaries. The separate trust fund shall meet the  
5 requirements of the [~~Government~~] Governmental Accounting  
6 Standards Board regarding other post-employment benefits trusts.  
7 The board shall establish and maintain a separate account for  
8 each public employer within the separate trust fund to accept  
9 and account for each public employer's contributions. Employer  
10 contributions to the separate trust fund shall be irrevocable,  
11 all assets of the fund shall be dedicated exclusively to  
12 providing health and other benefits to retirees and their  
13 beneficiaries, and assets of the fund shall not be subject to  
14 appropriation for any other purpose and shall not be subject to  
15 claims by creditors of the employers or the board or plan  
16 administrator. The board's powers under section 87A-24 shall  
17 also apply to the fund established pursuant to this section.  
18 Notwithstanding any law to the contrary, any earnings on  
19 investments from the assets of the trust fund shall be  
20 transferred to the separate public employer accounts within the  
21 rate stabilization reserve fund established in section 87A- at





1 the end of each fiscal year once the separate accounts for each  
2 public employer within the separate trust fund have a combined  
3 balance of at least \$2,000,000,000. Unless otherwise specified  
4 by law, the separate trust fund shall not be subject to  
5 appropriation for any purpose and shall not be subject to claims  
6 by creditors of employers or the board.

7 (b) Public employer contributions shall be paid into the  
8 fund in each fiscal year, and commencing with the 2018-2019  
9 fiscal year, the amount of the annual public employer  
10 contribution shall be equal to the amount of the annual required  
11 contribution, as determined by an actuary retained by the  
12 board[-]; provided that no public employer contribution shall be  
13 required if the separate accounts for each public employer  
14 within the separate trust fund have a combined balance of at  
15 least \$2,000,000,000."

16 2. By amending subsection (f) to read:

17 "(f) For the purposes of this section, "annual required  
18 contribution" means a public employer's required contribution to  
19 the trust fund established in this section [~~that is sufficient~~  
20 ~~to cover~~].



- 1        ~~(1) The normal cost, which is the cost of other post-~~
- 2                    ~~employment benefits attributable to the current year~~
- 3                    ~~of service; and~~
- 4        ~~(2) An amortization payment, which is a catch-up payment~~
- 5                    ~~for past service costs to fund the unfunded actuarial~~
- 6                    ~~accrued liability over the next thirty years]."~~

7            SECTION 3. Statutory material to be repealed is bracketed  
 8 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

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# H.B. NO. 887

**Report Title:**

Other Post-Employment Benefits; Unfunded Liability; EUTF

**Description:**

Establishes the Rate Stabilization Reserve Fund within the Employer-Union Health Benefits Trust Fund to help subsidize the costs of providing health and other benefit plans for retirees and their beneficiaries. Caps employer contributions to the OPEB trust fund, which are made to prefund the unfunded actuarial accrued liability of the EUTF, when the separate accounts for each public employer within the OPEB trust fund have a combined balance of at least \$2,000,000,000.

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

