A BILL FOR AN ACT

RELATING TO UNFUNDED LIABILITIES.

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

PART I

SECTION 1. The legislature finds that, according to the National Conference of State Legislatures, in 2010, forty-six states self-insured or self-funded at least one of their employee health care plans, and at least twenty-nine states self-funded all of their employee health care offerings.

The legislature also finds that self-insured or self-funded plans have a number of potential advantages over fully insured plans. The legislature further finds that many states administering self-insured or self-funded employee health care plans have been able to lower costs while still maintaining a high level of health benefits.

Hawaii's employer-union health benefits trust fund is currently fully insured rather than self-insured. However, health care premiums have risen rapidly over the last decade. Therefore, the legislature believes that it is both prudent and essential that the State examine whether converting the...
employer-union health benefits trust fund to a self-insured model will result in cost savings.

The purpose of this part is to require the state auditor to study the feasibility of providing health benefits to state and county employees using a self-insured model.

SECTION 2. (a) The state auditor shall study the feasibility of providing health benefits to state and county employees using a self-insured model. In conducting the study, the state auditor shall collect and take into account thorough data on:

(1) Historical census;
(2) Health benefit premiums;
(3) Contributions;
(4) Plan documents;
(5) Claims information; and
(6) Any other information the state auditor deems to be appropriate.

(b) In conducting the study under subsection (a), the state auditor shall examine the potential impacts of transitioning health benefits to a fully self-insured model,
partially self-insured model, or other risk retention model

including:

(1) Risks to the State from acting as its own insurer,
   including but not limited to:
   (A) Uncontrolled utilization; and
   (B) Cost increases from catastrophic claims events;

(2) Investment returns on reserves in the employer-union
    health benefits trust fund;

(3) Administrative cost savings, including any federal tax
    or fee savings;

(4) Fiduciary and legal obligations of the State;

(5) Benefits available for employees and other insured
    persons;

(6) Changes in provider reimbursement levels, capitation,
    and care management practices;

(7) Any other factors or impacts the state auditor deems
    to be relevant;

(8) Risk assumptions used and analysis of the assumptions;

and

(9) The funding model proposed under part II, which
    involves a rate stabilization reserve fund, maximum
levels of employer contributions to the other post-
employment benefits trust fund, the diversion of the
excess in employer contributions to the employees'
retirement fund, and the use of transient
accommodations tax revenues to supplement deficient
county public employer contribution amounts.
(c) The state auditor may contract the services of another
entity to perform any related services that may be required
pursuant to this part.
(d) The state auditor shall submit a report of its
findings and recommendations, including any proposed
legislation, to the legislature no later than twenty days prior
to the convening of the regular session of 2020.
SECTION 3. There is appropriated out of the general
revenues of the State of Hawaii the sum of $ or so much
thereof as may be necessary for fiscal year 2019-2020 for the
purposes of this part.
The sum appropriated shall be expended by the state auditor
for the purposes of this part.
PART II

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

To address this unfunded liability, Act 268, Session Laws of Hawaii 2013, requires the State and counties to prefund other post-employment health and other benefit plan costs for retirees and their beneficiaries by making annual contributions to the other post-employment benefits trust fund. State, county, and other public employers' annual contributions to the other post-employment benefits trust fund totals $427,299,249, while all assets of the trust fund total $2,370,481,565, for fiscal year 2018.

Meanwhile, the State, counties, and other public employers are also required to make payments to cover a portion of pay-as-you-go Hawaii employer-union health benefits trust fund costs. Clearly, given current and projected revenues, the State and the counties cannot afford to prefund both health and pension unfunded liabilities, which are projected to total more than
$800,000,000 per year in later years. A more affordable and
less painful solution is necessary.

Furthermore, the Hawaii employer-union health benefits
trust fund projects a seven per cent investment return on funds
in the other post-employment benefits trust fund, which amounts
to an estimated $140,000,000 that will be deposited into the
rate stabilization reserve fund each year. By not requiring
other post-employment benefits prefunding through 2049, this Act
will free up moneys for important state, county, and other
public employee services, projects, and needs.

Accordingly, this part:

(1) Caps public employer prefunding to the other post-
employment benefits trust fund once the separate
accounts for each public employer have a combined
subaccount balance of at least $2,000,000,000;

(2) Thereafter, transfers any investment income and
interest from the other post-employment benefits trust
fund to a newly established rate stabilization reserve
fund, which will provide reserve funding to stabilize
the Hawaii employer-union health benefits trust fund
at times when that trust fund has insufficient moneys
to cover the costs of providing health and other
benefits plans for active employees and retirees and
their beneficiaries; and

(3) Provides for the use of a portion of the transient
accommodations tax revenues to supplement deficient
county public employer contribution amounts if
necessary.

SECTION 5. Chapter 87A, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§87A—Rate stabilization reserve fund; establishment;
purpose. (a) There is established a rate stabilization reserve
fund to be placed within the employer-union health benefits
trust fund for administrative purposes.

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

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

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

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

(3) Appropriations from the legislature.

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

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

"(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.] All unencumbered and unexpended
moneys in excess of $2,000,000,000 remaining in the fund at the
end of each fiscal year shall be transferred to the rate
stabilization reserve fund established in section 87A-
"

SECTION 7. Section 87A-42, Hawaii Revised Statutes, is
amended as follows:

1. By amending subsection (a) to read:
"(a) Notwithstanding sections 87A-31 and 87A-31.5, the
board, upon terms and conditions set by the board, shall
establish and administer a separate trust fund for the purpose
of receiving employer contributions that will prefund other
post-employment health and other benefit plan costs for retirees
and their beneficiaries. The separate trust fund shall meet the
requirements of the [Government] Governmental Accounting
Standards Board regarding other post-employment benefits trusts.
The board shall establish and maintain a separate account for
each public employer within the separate trust fund to accept
and account for each public employer’s contributions. Employer
contributions to the separate trust fund shall be irrevocable, all assets of the fund shall be dedicated exclusively to providing health and other benefits to retirees and their beneficiaries, and assets of the fund shall not be subject to appropriation for any other purpose and shall not be subject to claims by creditors of the employers or the board or plan administrator. The board's powers under section 87A-24 shall also apply to the fund established pursuant to this section. Notwithstanding any law to the contrary, once the separate accounts for each public employer within the separate trust fund have a combined balance of at least $2,000,000,000, any earnings from the $2,000,000,000 remaining in the separate trust fund at the end of each fiscal year shall be transferred to the separate public employer accounts within the rate stabilization reserve fund established in section 87A-. Unless otherwise specified by law, the $2,000,000,000 and the separate trust fund shall not be subject to appropriation for any purpose and shall not be subject to claims by creditors of employers or the board."

2. By amending subsection (d) to read: "(d) In any fiscal year [subsequent to the 2017-2018 fiscal year] in which a county public employer's contributions
into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the applicable fund pursuant to this section from a portion of all transient accommodations tax revenues collected by the department of taxation under section 237D-6.5(b)(4). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section 237D-6.5(b)(4) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund."

3. By amending subsection (f) to read:

"(f) For the purposes of this section, "annual required contribution" means a public employer's required contribution to the trust fund established in this section [that is sufficient to cover] (1) The normal cost, which is the cost of other post-employment benefits attributable to the current year of service; and
(2) An amortization payment, which is a catch-up payment for past service costs to fund the unfunded actuarial accrued liability over the next thirty years]."

PART III

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

SECTION 9. This Act shall take effect on July 1, 2019; provided that part II shall take effect on July 1, 2020.

INTRODUCED BY:
Report Title:
Public Officers and Employees; Health Benefits; State Auditor; Study; Appropriation; OPEB; Unfunded Liability; EUTF

Description:
Requires the State Auditor to study the feasibility of providing health benefits to state and county employees using a self-insured model. Makes an appropriation. Establishes the Rate Stabilization Reserve Fund within the Hawaii Employer-Union Health Benefits Trust Fund to help subsidize the costs of providing health and other benefit plans for active employees and retirees and their beneficiaries. Caps employer contributions to the Other Post-Employment Benefits (OPEB) trust fund, which are made to prefund the unfunded actuarial accrued liability of the Employer Union trust fund, when the separate accounts for each public employer within the OPEB trust fund have a combined balance of at least $2,000,000,000. Provides for the use of a portion of transient accommodations tax revenues to supplement deficient county public employer contribution amounts.

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