
HOUSE RESOLUTION

URGING HAWAII'S CONGRESSIONAL DELEGATION TO ENACT LEGISLATION TO PROTECT THE PENSIONS OF EMPLOYEES WHO ARE EMPLOYED BY EMPLOYERS THAT ARE FACING FINANCIAL DIFFICULTIES.

1 WHEREAS, under current federal legislation, bankrupt
2 employers can legally underfund their employee's pensions by
3 turning them over to Pension Benefit Guarantee Corporation
4 (PBGC); and

5
6 WHEREAS, the federal agency that guarantees private
7 pensions, the PBGC, is already \$23.3 billion in debt and with
8 outdated laws, under-funding, and the prospect of additional
9 pension fund defaults, the PBGC is increasingly unlikely to
10 safeguard pensions into the future; and

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12 WHEREAS, many companies have misrepresented the condition
13 of their pension funds and are contributing insufficient money
14 as a result; and

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16 WHEREAS, the Employee Retirement Security Income Act
17 (ERISA) requires that promised pension benefits be adequately
18 funded and that pension monies be kept separate from an
19 employer's business assets and held in trust or invested in an
20 insurance contract; and

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22 WHEREAS, often times, in the case of a business bankruptcy,
23 the company's executives' pensions are protected, while the
24 employee's pensions are cut; and

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26 WHEREAS, the current state of the economy will only
27 perpetuate the amount of employers facing difficult times who
28 may be tempted to dump off or discontinue their employee's
29 pensions; now, therefore,
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1 BE IT RESOLVED by the House of Representatives of the
 2 Twenty-fifth Legislature of the State of Hawaii, Regular Session
 3 of 2009, that Hawaii's Congressional Delegation is urged to
 4 enact legislation that would protect employee's pensions from
 5 being depleted due to their employer's financial difficulties;
 6 and

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 8 BE IT FURTHER RESOLVED that because pensions are deferred
 9 wages and a right owed to employees, it is further urged that
 10 such legislation be crafted to give employee pension benefits
 11 first priority in cases of bankruptcy and pension plan relief
 12 and reform, and that pension fund relief plans should be
 13 tailored to the financial condition of the individual pension
 14 plan, not the sponsoring company; and

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 16 BE IT FURTHER RESOLVED that under such legislation,
 17 executives should do no better than ordinary workers in
 18 bankruptcy, unless they can prove to a judge that the survival
 19 of the business requires they do better and that their pay is
 20 reasonable; and

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 22 BE IT FURTHER RESOLVED that companies not be allowed to
 23 misrepresent the condition of their pension funds by using
 24 actuarial techniques used to shield companies' performance from
 25 the volatility of their pension numbers; and

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 27 BE IT FURTHER RESOLVED that bankrupt companies be able to
 28 fully fund their defined benefit plans and make a gradual and
 29 orderly transition rather than dumping their employee's pensions
 30 on the PBGC; and

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 32 BE IT FURTHER RESOLVED that certified copies of this
 33 Resolution be transmitted to the President of the United States,
 34 the Majority and Minority Leaders of the United States Senate,
 35 the Speaker and Minority Leader of the United States House of
 36 Representatives, and each member of Hawaii's Congressional
 37 Delegation.

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Guthrie Threlkeld

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JAN 23 2009

