



GOV. MSG. NO. **677**

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2849 SD2 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB2849 SD2 HD1 CD1

A BILL FOR AN ACT  
RELATING TO THE HAWAII EMPLOYER-UNION  
HEALTH BENEFITS TRUST FUND.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2849

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2849, entitled "A Bill for an Act Relating to the Hawaii Employer-Union Health Benefits Trust Fund."

The purposes of this bill are to: (1) require all moneys appropriated to the Hawaii Employer-Union Health Benefits Trust Fund ("EUTF") to be transferred directly to the EUTF and not be subject to budget allotment procedures or the powers of the Governor and Director of Finance; (2) change the voting structure of the EUTF board of trustees so that each trustee has one vote and the votes of six trustees are required for any action; and (3) add "surplus" to the description of what is to be held in trust for the exclusive use and benefit of EUTF beneficiaries, and not be subject to appropriation or transfer for any other purpose.

This bill is objectionable because it categorically exempts moneys appropriated for contributions to the EUTF from the allotment system. This system is necessary to control state expenditures, effectuate savings, promote efficient management of state agencies, and ensure general fund expenditures do not exceed general fund revenues, as required by the State Constitution. Under this bill, contributions would have to be made to the EUTF even if the EUTF does not need the contributions to cover the State's share of health benefit plan costs or the general fund expenditures exceed general fund revenues.

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 2849  
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In addition, the bill is objectionable because it creates ambiguity and confusion over when appropriations are to be transferred to the EUTF and how much is to be transferred. Appropriations for the State's contributions to the EUTF are based on the Department of Budget and Finance's estimate of the State's share of EUTF benefit plan costs each year. This is because the number of beneficiaries enrolled in EUTF benefits plans changes constantly and premium costs or rates also change during the fiscal period. Under current law, the Department is required to pay the EUTF a monthly contribution for each of the State's EUTF beneficiaries, and the amount is used toward the payment of their EUTF benefit plan costs. Specifically, sections 87A-32(2) and 87A-33, Hawaii Revised Statutes, require that the monthly contribution shall not exceed the actual cost of the health benefit plans. Under this bill, the Department would essentially pay the estimated EUTF contributions on the first day of each fiscal year, which for fiscal year 2010-2011 amount to \$478,025,239 as appropriated in the State supplemental budget. This conflict with current law would make it impossible to properly administer payments to the EUTF if this bill became law.

For the foregoing reasons, I am returning Senate Bill No. 2849 without my approval.

Respectfully,



LINDA LINGLE  
Governor of Hawaii

# VETO

THE SENATE  
TWENTY-FIFTH LEGISLATURE, 2010  
STATE OF HAWAII

S.B. NO. 2849  
S.D. 2  
H.D. 1  
C.D. 1

## A BILL FOR AN ACT

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST  
FUND.

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

1 SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4 "PART . HAWAII EMPLOYER-UNION HEALTH

5 BENEFITS TRUST FUND APPROPRIATION

6 §37- Restriction on Hawaii employer-union health

7 benefits trust fund appropriations. All moneys appropriated by  
8 the legislature that are designated as contributions to the  
9 Hawaii employer-union health benefits trust fund to pay trust  
10 fund benefits shall be transferred directly to the Hawaii  
11 employer-union health benefits trust fund and not be subject to  
12 the allotment procedures under chapter 37 or subject to the  
13 powers granted to the governor and the director of finance under  
14 sections 37-32 through 37-41."

15 SECTION 2. Section 87A-11, Hawaii Revised Statutes, is  
16 amended to read as follows:



1           "~~[+]~~§87A-11~~[+]~~ Quorum; board actions; voting. (a) Six  
2 trustees, three of whom represent the public employer and three  
3 of whom represent employee-beneficiaries, shall constitute a  
4 quorum for the transaction of business.

5           (b) ~~[Trustees representing the public employers shall~~  
6 ~~collectively have one vote. Trustees representing the employee-~~  
7 ~~beneficiaries shall collectively have one vote.~~

8           ~~For any vote of the trustees representing the public~~  
9 ~~employers to be valid, three of these trustees must concur to~~  
10 ~~cast such a vote. In the absence of such concurrence, the~~  
11 ~~trustees representing the public employers shall be deemed to~~  
12 ~~have abstained from voting.~~

13           ~~For any vote of the trustees representing the employee-~~  
14 ~~beneficiaries to be valid, three of these trustees must concur~~  
15 ~~to cast such a vote. In the absence of such concurrence, the~~  
16 ~~trustees representing the employee-beneficiaries shall be deemed~~  
17 ~~to have abstained from voting.] Each trustee of the board shall~~  
18 ~~have one vote for matters concerning board actions.~~

19           An abstention shall not be counted as either a vote in  
20 favor or against a matter before the board.

21           (c) Any action taken by the board shall be by the  
22 concurrence of at least ~~[two]~~ six votes. In the event of a tie



1 vote on any motion, the motion shall fail. Upon the concurrence  
2 of six trustees, the board shall participate in dispute  
3 resolution."

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

6 **"§87A-30 Hawaii employer-union health benefits trust fund;**  
7 **establishment.** There is established outside the state treasury,  
8 a trust fund to be known as the "Hawaii Employer-Union Health  
9 Benefits Trust Fund". The fund shall consist of contributions,  
10 interest, income, dividends, refunds, rate credits, and other  
11 returns. It is hereby declared that any and all sums  
12 contributed or paid from any source to the fund created by this  
13 part, and all assets of the fund including any and all interest  
14 [~~and~~], earnings, or surplus on the same, are and shall be held  
15 in trust by the board for the exclusive use and benefit of the  
16 employee-beneficiaries and dependent-beneficiaries and shall not  
17 be subject to appropriation or transfer for any other purpose  
18 whatsoever. The fund shall be under the control of the board  
19 and placed under the department of budget and finance for  
20 administrative purposes."

21 SECTION 4. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

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