



LINDA LINGLE
GOVERNOR

MARIE C LADERTA
CHIEF NEGOTIATOR

STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813

March 15, 2010

TESTIMONY to the
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Tuesday, March 16, 2010
10:00 a.m., Conference Room 309

By

MARIE C. LADERTA
CHIEF NEGOTIATOR

**Senate Bill No. 2849, Proposed H.D. 1
Relating to the Hawaii Employer-Union Health Benefits Trust Fund**

WRITTEN TESTIMONY ONLY

CHAIRPERSON RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 2849, Proposed H.D. 1, is to establish bargaining unit health benefits trust funds; change the Hawaii Employer-Union Health Benefits Trust Fund to provide health and other benefits to exempt employees and retirees; change the name of the fund to the Hawaii Public Employee Health Benefits Trust Fund; and amend the impasse procedures for certain bargaining units by shortening the time frames for arbitration.

The Office of Collective Bargaining is **strongly opposed** to this bill.

First, the creation of separate health benefit trust funds for each bargaining unit would essentially return the State to the pre-EUTF days when eligible employees could obtain their health benefits under the Hawaii Public Employees Health Fund ("Health Fund") or various union-sponsored plans. In passing Act 88 in 2001, to create the current EUTF and establish a single health benefits delivery system for State and

county employees, retirees, and their dependents, the Legislature sought to address at least three major problems under the Health Fund: 1) the Legislative Auditor's 1999 finding that if the State maintained the Health Fund system, the cost of employer contributions will exceed \$1,000,000,000 in 2013; 2) the unions' ability to negotiate more competitive benefit packages with insurance carriers and keep costs down by not offering coverage to retirees; and 3) the unions' retention of refunds for the overpayment of premiums, even though the Health Fund paid for the bulk of union-plan premiums. (A copy of the 2001 conference committee report is attached.) We believe these issues have been effectively addressed through the EUTF and that this bill would allow those problems to resurface.

Second, this bill would virtually assure that different bargaining units will receive disproportionately favorable or unfavorable health contribution rates in comparison to other units, depending in large part on the demographics of each unit and the members' anticipated use of their health benefits. The level of benefits offered would also be markedly different between different bargaining units as health plan providers take these demographics into consideration in formulating their plan proposals to the respective boards of each fund. Thus, this bill would eliminate one of the major tenets of the EUTF, which is to negotiate benefits with a single large pool of beneficiaries.

Third, the proposed amendments to Section 89-11(a) and (h), HRS, which disallow alternate impasse procedures on the health benefit contribution amount, would remove the flexibility of the public employers and the unions to continue negotiations and attempt to resolve one of the most significant issues in every negotiation. When necessary to address the contingencies of negotiations (including awaiting Council on Revenues projections), the parties have historically and traditionally agreed to alternate procedures on all issues, including contribution amounts, to help facilitate an agreement.

Fourth, the proposed amendments to Section 89-11(c), HRS, to move the statutory impasse date to October 1 in the second year of a fiscal biennium is completely impractical for purposes of collective bargaining. The public employers have the legal obligation under applicable laws to balance their respective budgets by

keeping expenditures below projected revenues. For the State Executive Branch, this obligation is found in Article VII of the State Constitution and Chapter 37, HRS. Specifically, Article VII, Section 7, of the State Constitution provides that the Council on Revenues' estimates "shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures." The public employers are simply not in a position to make any economic proposals (i.e., health benefit contributions or salaries) before an October 1 impasse date because Council on Revenue projections for January and March of the following year would not yet exist and there would be no clarity to the budget picture.

Finally, while the proposed amendment to Section 89-11(e)(2)(C) requires that the arbitration panel commence a hearing within sixty days of its appointment, this change would have no effect if one party desires to delay the proceedings. In the most recent round of negotiations, one union resorted to litigation to oppose the arbitration panel member selected by the public employers, thereby leading to months of delay.

For the above reasons, we respectfully request that the Committee hold this bill.

Thank you for the opportunity to testify in strong opposition to this measure.

CONFERENCE
COMMITTEE REP.
NO. 124

Honolulu, Hawaii

, 2001

RE: S.B. No. 1044

S.D. 1

H.D. 1

C.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-First State Legislature
Regular Session of 2001
State of Hawaii
Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-First State Legislature
Regular Session of 2001
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1044, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYEE HEALTH BENEFITS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to establish a single health benefits delivery system for State and county employees, retirees, and their dependents. The new system will be known as the Hawaii Employer-Union Health Benefits Trust Fund (Trust Fund).

Your Committee on Conference finds that providing quality health insurance meeting the needs of all public employees and their dependents is a top priority. At the same time, one of the State's chief concerns is how it will be able to afford escalating health insurance costs for State and county public employees, retirees, and their dependents under the Hawaii Public Employees Health Fund (Health Fund).

Health benefits are a significant component of the total compensation package for public employers and comprise a substantial part of the State's payroll costs. Contributions for public employee health benefits in Hawaii consume about 10 percent of the State's operating expenses.

In 1999, the Legislative Auditor found that if the State maintains the current Health Fund system, the cost of employer contributions will exceed \$1,000,000,000 in 2013.

The Health Fund was established in 1961 to provide health benefits for state and county workers. The Health Fund now offers a comprehensive package of benefits, including medical, prescription drug, vision, dental, long-term care, and life insurance benefits.

Beginning in 1984, eligible employees were given the option of obtaining health benefit coverage through union-sponsored plans, instead of the Health Fund. Since then, the percentage of active employees participating in union plans has grown dramatically.

Under the Health Fund, the State and counties pay 60 percent of the premiums for active employees and their dependents.

Active employees pay the remaining 40 percent of the premiums. Retirees do not pay for their premiums.

On the other hand, the Health Fund contributes roughly 70 to 90 percent of active employee insurance premiums under union plans. The unions have been able to attract more employees because they have been able to negotiate more competitive benefit packages with insurance carriers. Moreover, the unions have been able to keep costs down because they do not offer coverage to retirees, who are generally higher risks than younger, active employees.

This inequity is further compounded when unions are refunded for the overpayment of premiums. Even though the Health Fund pays for the bulk of union-plan premiums, none of the refunded money is returned to the Health Fund.

This bill seeks to address these concerns by repealing the existing Health Fund and replacing it with an employer-union trust structure to provide a single health benefits program for public employees, retirees, and their dependents.

If nothing is done now, the spiraling cost of the Health Fund will create significant financial hardships for state taxpayers. Recognizing the urgency of this matter, your Committee on Conference finds that reforming the Health Fund is the responsible thing to do.

This bill will ensure that the Health Fund, and the succeeding Trust Fund, will remain solvent. Consolidating the health benefits programs under the existing system will ensure the solvency of the State, as well as benefit all public employees and retirees today and in the future.

It is not the intention of your Committee on Conference that public employees and retirees suffer a diminishment of existing health benefits. This bill will give the governing boards of the Trust Fund and the Health Fund, during the transition period, complete discretion, authority, and flexibility to devise and maximize the levels and types of benefits available for public employees and retirees.

To ensure that the needs of the beneficiaries of the system

are met, the bill provides for their representation on the Trust Fund Board. Further, the amounts of employer contributions will be determined through collective bargaining.

After careful deliberation, your Committee on Conference has amended this bill by:

1. Clarifying definitions for "carrier," "employee," "employee-beneficiary," "health benefits plan," and "qualified-beneficiary;"
2. Providing new definitions for "county," and "part-time, temporary, and seasonal or casual employee;"
3. Changing the composition of the Board of Trustees of the Trust Fund (Board) to consist of 10 trustees as follows:

(A) Five trustees, one of whom shall represent retirees, to represent employee-beneficiaries. The trustees shall be appointed from a list of three nominees per trustee submitted by the exclusive employee representative organizations; and

(B) Five trustees to represent public employers;

4. Establishing, as far as practicable, staggered four-year terms for all trustees;
5. Clarifying that the Governor shall replace a trustee with a successor trustee representing the same interests as the person's predecessor;
6. Providing that a majority of trustees, instead of two trustees, may call a Board meeting by giving at least 10 calendar days' written notice;
7. Deleting the provision allowing any Board action to be taken by a simple majority. Instead, any action taken by the Board must be by concurrence of at least two votes; and
8. Changing the quorum and voting requirements necessary for Board actions. Specifically:

(A) For any vote of the trustees representing public employers to be valid, three of these trustees must

concur. These trustees will be deemed to have abstained from voting in the absence of concurrence;

(B) For any vote of the trustees representing employee-beneficiaries to be valid, three of these trustees must concur. These trustees will be deemed to have abstained from voting in the absence of concurrence; and

(C) Upon concurrence of six trustees, the Board shall participate in dispute resolution;

(9) Clarifying that long-term care benefits plans shall be at no cost to employers;

(10) Allowing the Board to contract with a carrier or third-party administrator to administer self-insured benefits for long-term care without regard to chapter 103D, Hawaii Revised Statutes (HRS);

(11) Requiring the State and counties to make a contribution equal to \$50 per month, or such other amount to be determined by the Board, for voluntary medical insurance coverage under Medicare for each retired member or spouse of a retired member;

(12) Allowing the Board to adopt rules, without regard to chapter 91, HRS, governing dispute resolution in the event of impasse in decision-making. Rules governing dispute resolution shall be adopted with the concurrence of six trustees;

(13) Changing the base monthly contribution rates for health benefit plans for retired employees as follows:

(A) \$218.00 for each employee-beneficiary enrolled in supplemental Medicare self plans;

(B) \$671.00 for each employee-beneficiary enrolled in supplemental Medicare family plans;

(C) \$342.00 for each employee-beneficiary enrolled in non-Medicare self plans;

(D) \$928.00 for each employee-beneficiary enrolled in non-Medicare family plans;

(14) Clarifying that state agencies having control of funds other than the general fund shall reimburse the State for State contributions;

(15) Deleting amendments made to section 87-27, HRS;

(16) Specifying that for the initial appointment for trustees representing employee-beneficiaries, two members will serve four-year terms, two will serve three-year terms, and one will serve for a two-year term;

(17) Specifying that when submitting the list of nominees for the trustees representing employee-beneficiaries, the exclusive employee representative organizations shall indicate preferences for the length of the trustee's term for each set of nominees recommended to the Governor;

(18) Deleting the general fund expenditure ceiling provision;

(19) Appropriating \$300,000 for fiscal year 2001-2002 for the hiring of necessary staff, consultants, and other administrative expenses to enable the Department of Budget and Finance to effectuate this measure;

(20) Changing the effective date to take effect on July 1, 2001, except that the section repealing chapter 87, HRS, would take effect on

July 1, 2003. Further, all rules governing the Health Fund will remain in effect until the Trust Fund adopts new rules; and

(21) Making other technical, nonsubstantive amendments for purposes of style, consistency, and clarity.

This bill, as amended, would result in potential cost savings of \$65,000,000 by 2004. By the year 2013, cumulative savings could be as high as \$903,797,000.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1044, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1044, S.D. 1, H.D. 1, C.D. 1.

Respectfully
submitted on
behalf of
the
managers:

ON THE PART OF THE HOUSE	ON THE PART OF THE SENATE
<hr/> <p>TERRY NUI YOSHINAGA, Chair</p>	<hr/> <p>COLLEEN HANABUSA, Chair</p>
<hr/> <p>SCOTT K. SAIKI, Chair</p>	<hr/> <p>DONNA MERCADO KIM, Co-Chair</p>
	<hr/> <p>BOB NAKATA, Co-Chair</p>

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

850 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-6583 • INTERNET: www.honolulu.gov/hr

MUFI HANNEMANN
MAYOR



NOEL T. ONG
DIRECTOR

March 16, 2010

The Honorable Karl Rhoads, Chair
and Members of the Committee on
Labor & Public Employment
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: Senate Bill 2849, SD2 (Proposed House Draft 1),
Relating to the Hawaii Employer-Union Health Benefits Trust Fund

The City and County of Honolulu, Department of Human Resources has concerns regarding the Proposed House Draft 1 version of Senate Bill 2849 and cannot support it at this time.

Our understanding of the proposed bill is that it will provide for each bargaining unit to have a different trust fund, with different administrators and different staff that would provide for health and life insurance for included bargaining unit employees and retirees. Each trust fund would also establish its own eligibility requirements. In addition to each bargaining unit trust fund, a trust fund would remain, presumably for those not included in the bargaining units—such as excluded employees and managers and elected officials.

The City is concerned that the fragmentation of the employee and retiree group will lead to higher costs—administrative and other—due to the loss of the economies of scale provided by having all employees in one trust fund. The fragmentation would prove even more problematic (and more costly) for those employees not included in the bargaining unit (and retirees who were not in a bargaining unit at the time of retirement). For example, if it is determined that the "not less than requirement" under 89C for employees excluded from bargaining units is applicable to health plan benefits, and if these benefits are different for each bargaining unit—the trust fund for excluded

The Honorable Karl Rhoads, Chair
and Members of the Committee on
Labor & Public Employment

Page 2

March 16, 2010

employees would be required to contract for differing plans for very small groups of employees and retirees. Additional difficulties may arise from the provisions permitting each bargaining unit to establish its own eligibility requirements and other rules.

Although the City has grave concerns regarding the establishment of separate trust funds, if this concept is advanced, the City strongly advocates that the counties have representation on all the trust fund boards of bargaining units that include county employees. Further, the City believes the counties should have the majority of employer trustees in bargaining units 11 (Fire Fighters) and 12 (Police Officers). We note that the vast majority of Fire Fighters and all Police Officers are county employees.

The City recognizes that recent events have highlighted difficulties resulting from the current EUTF law. We want to emphasize that we want to be part of the solution and would be happy to further discuss our concerns.

Thank you for the opportunity to testify.

Yours truly,



Noel T. Ono
Director



House Committee on Labor & Public Employment
Tuesday, March 16, 2010
10:00 a.m.

SB 2849, SD2, HD1, Relating to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF)

Dear Chairman Rhoads and Committee Members:

The University of Hawaii Professional Assembly does not support SB 2849, S.D.2, H.D.1.

The proposed legislation undermines the efforts to reform and fundamentally change the EUTF and the failures of the current system. UHPA has strenuously advocated for a system that places beneficiaries first and allows negotiations over benefits and contributions to meet the needs of each respective bargaining unit.

This proposal is deeply flawed and UHPA respectfully requests that your committee return to the original proposal.

Respectively submitted,

Kristeen Hanselman
Associate Executive Director

**UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY**

1017 Palm Drive • Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 • Facsimile: (808) 593-2160
Web Page: <http://www.uhpa.org>



LATE

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
SENATE BILL NO. 2849, S.D. 2, PROPOSED H.D. 1

March 16, 2010

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

Senate Bill No. 2849, S.D. 2, Proposed H.D. 1, makes the following amendments to Chapters 87A and 89, Hawaii Revised Statutes, which governs the Hawaii Employer-Union Health Benefits Trust Fund and Collective Bargaining in Public Employment:

- Establishes 13 bargaining unit health benefit trust funds, one for each collective bargaining unit.
- Establishes ten-member boards of trustees for each bargaining unit health benefits trust fund; five members to represent the employee-beneficiaries and five members to represent the employers.
- Places employees who are not members of a bargaining unit and retirees in public employee health benefits trust fund separate from the bargaining unit trust funds.
- Allows the use of arbitration to resolve impasses or disputes concerning health benefit contributions.
- Prohibits the use of alternate impasse procedures relating to contributions for health benefits premiums.
- Changes the statutory impasse date from February 1 of the year a contract is set to expire to October 1 of the second year of a fiscal biennium.

- Shortens the length of time to begin an arbitration hearing after impasse from 120 to 60 days.

The Department of Budget and Finance is strongly opposed to this bill. First, the department has serious concerns with the creation of the 13 bargaining unit health benefit trust funds. We believe this will create administrative complexities and inefficiencies and result in substantially higher rates for employees who are not members of bargaining units with favorable demographics. We strongly believe a uniform benefit package is fairest and results in a more harmonious workplace.

Second, we believe the proposed impasse date and arbitration schedule modifications are not realistic. The proposed budget for the next biennium will not be complete at that time and the employer will not be in a position to make or consider serious cost proposals. In addition, imposing impasse before the General Election date may mean the State or county negotiation team may change subsequent to the impasse date.

Third, we are opposed to allowing health premium contribution amounts to be decided by arbitration panels. Allowing arbitrators to establish contribution rates for arbitrated units unable to reach an agreement with the employer and allowing an arbitrator to make such determinations reduces the incentive for the parties to collectively bargain.

Finally, on a technical matter, there is an inconsistency in removing the language to prohibit arbitration panels from deciding health premium contribution amounts while retaining the language allowing the Legislature to set the contributions when the parties are unable to agree.



LATE

1200 Ala Kapuna Street • Honolulu, Hawaii 96819
Tel: (808) 833-2711 • Fax: (808) 839-7106 • Web: www.hsta.org

Wil Okabe
President

Karolyn Mossman
Vice President

Joan Kamila Lewis
Secretary-Treasurer

Jim Williams
Interim Executive Director

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT**

**RE: SB 2849, SD 2, PROPOSED HD 1 ~ RELATING TO THE HAWAII
EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**

Tuesday, March 16, 2010

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Rhoads and Members of the Committee:

The Hawaii State Teachers Association offers the following comments on SB 2849, SD 2, Proposed HD 1:

- Under this bill the governor appoints the Hawaii Employer – Union Health Benefits Trust Fund administrator. HSTA believes the Hawaii Employer – Union Health Benefits Trust Fund should have its own board with the power to appoint the fund administrator.
- This bill does not make clear the future of the HSTA VEBA. We believe HSTA should be given the choice of rolling its VEBA into the Hawaii Employer – Union Health Benefits Trust Fund, or continue to operate independently.
- If the VEBA is placed under the Hawaii Employer – Union Health Benefits Trust Fund, the current VEBA Trust board structure should be exempt from the proposed new section governing Bargaining Unit Health Benefits Trust Funds.
- Finally, since this bill does not take effect until July 1, 2012, we ask this committee to support SB 2797, SD2, that provides for a two-year extension of the HSTA VEBA.

Thank you for this opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA
Executive Director
Tel: 808.543.0011
Fax: 808.528.0922

NORA A. NOMURA
Deputy Executive Director
Tel: 808.543.0003
Fax: 808.528.0922

DEREK M. MIZUNO
Deputy Executive Director
Tel: 808.543.0055
Fax: 808.523.6879

LATE

The Twenty-Fifth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
March 16, 2010

S.B. 2849, S.D. 2 (Proposed H.D. 1) -
RELATING TO THE HAWAII
EMPLOYER-UNION HEALTH
BENEFITS TRUST FUND

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of S.B. 2849, S.D. 2 (Proposed H.D. 1). We prefer S.B. 2849 S.D. 2 because it makes fundamental changes to the structure and operating principles of the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) that are overdue. There is widespread agreement that the EUTF is not operating as originally intended and has become a serious problem for state and county employees and employers.

The current system is broken and needs fundamental change. S.B. 2849, S.D. 2 along with H.B. 2937 will permit the negotiation of health care benefits in addition to contributions, and contain other significant reforms that will eliminate many of the problems that make the EUTF ineffective and expensive.

We believe that benefits are an integral part of employee compensation and should be negotiated between unions and employers. Other reform efforts that can be achieved through negotiation include effective mechanisms for controlling costs, encouraging preventive care, implementing wellness programs, requiring information on provider performance and enhancing efficiency.

The HGEA opposes S.B. 2849, S.D. 2 (Proposed H.D. 1) for the following reasons:

1. The sections pertaining to the fiduciary responsibilities of the board and liability for breach of fiduciary duty were removed.
2. Allowing the board to retain independent legal counsel was deleted.
3. Authorizing the various bargaining unit health benefits trust funds to have their own boards is too complicated. For example, ten trustees for each bargaining unit health benefits trust fund for HGEA units are unmanageable. We also

question the need for a separate administrator for each bargaining unit health benefits trust fund along with its own staff. This would add to the administrative expenses of the trust funds.

4. The composition of the employer trustees does not include a retiree beneficiary and at least one trustee representing the counties from a list of nominees submitted to the Governor by the County Mayors.
5. The administration of the fund should be assigned to the boards, not the boards and administrator. (Section 87A-15, HRS). Another problem with this amendment is that health and other benefit plans "... shall be provided at a cost affordable to both the public employers and the public employees." Instead, the benefit plans should be provided as follows:
 - o For collective bargaining units, the plans should be based upon the collectively bargained contributions from the employers and employees;
 - o For retirees, the plans should be based upon the appropriation adopted by the legislature and the counties;
 - o For all other eligible beneficiaries, the plans should be based upon the contribution from the employer and employees.
6. The fund should be under the control of the board of trustees, not the administrator (Section 87A-30, HRS).
7. The board, not the administrator, should be able to create separate funds within the fund. (Section 87A-31, HRS).
8. Under Section 87A-32, HRS, the amount of the monthly contribution should be based upon what is specified in the applicable public sector collective bargaining agreements or Chapter 89C, HRS.
9. In Section 87A-33, HRS, the board, not the administrator, should be vested with the authority to adopt a rate structure that provides for other than self and family rates.
10. Under Section 89-9 (e), HRS, it is critical that negotiations must be related to the benefits of and contributions to the Hawaii Public Employees Health Benefits Trust Fund for the purpose of agreeing upon the benefits under the health

Hawaii State House of Representatives - Committee on Labor & Public Employment
Testimony re S.B. 2849, S.D. 2 (Proposed H.D. 1) - Relating To The Hawaii Employer-
Union Health Benefits Trust Fund

March 16, 2010

Page 3

benefits plan and amounts that the state and counties will contribute under Sections 87A-32 through 87A-37, HRS. Also, the parties should not be bound by the benefits and amounts contributed under prior agreements.

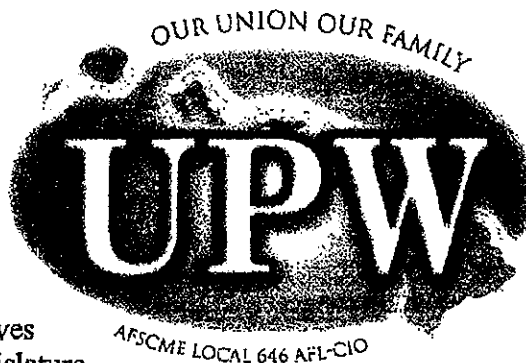
11. Section 89-11 (g), HRS needs to be amended so that the disagreement on the benefits or amount of contributions is subject to arbitration and is not submitted to the legislature.
12. We do not understand the rationale for the changes to impasse made in Section 89-11 (a), HRS and 89-11 (e), HRS.

We support S.B. 2849, S.D. 2 because it makes the required reforms to the EUTF.

Respectfully submitted,



Nora A. Nomura
Deputy Executive Director



LATE

House of Representatives
The Twenty-Fifth Legislature
Regular Session of 2010

Committee on Labor & Public Employment
Rep. Karl Rhoads, Chair
Rep. Kyle Yamashita, Vice Chair

DATE: Tuesday, March 16, 2010
TIME: 10:00 a.m.
PLACE: Conference Room 309

**TESTIMONY OF THE UNITED PUBLIC WORKERS, LOCAL 646, ON SB 2849,
SD2, HD1 PROPOSED, RELATING TO THE HAWAII EMPLOYER-UNION
HEALTH BENEFITS TRUST FUND**

The United Public Workers, Local 646, opposes this measure. Specifically, the sections on fiduciary responsibilities and independent legal counsel have been deleted from the original bill.

We favor SB 2849 which, among other things, fundamentally restructures the Employer-Union Health Benefits Trust Fund (EUTF) by holding trustees accountable to both their fiduciary duties and to their appointing representatives. This measure recognizes that the trustee is a fiduciary whose duty to the trust beneficiaries must overcome any loyalty to the interest of the representative who appointed him or her. Yet the composition of the EUTF board allows the exclusive bargaining representatives and the employer representatives to appoint trustees who serve at the pleasure of the appointing representatives and will bring their interests to the board.

Secondly, as proposed, this measure does not allow the trustees to retain legal counsel other than the attorney general. Retaining independent legal counsel provides for greater stability in the legal workforce representing the trustees and greater protection for then EUTF beneficiaries. The field of labor-management trust funds grows more complex, carries more liability concerns, and exposes the beneficiaries to greater risks warranting the specialized legal resource. Allowing the trustees to retain legal counsel other than the attorney general assures the autonomy of the trust fund given the balance sought in the composition of the trust fund.

For these reasons we oppose the proposed legislation.