

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 1041, H.D. 1

February 25, 2011

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST
FUND

House Bill No. 1041, H.D. 1, eliminates Medicare Part B reimbursements for retired employee-beneficiaries and the spouses of employee-beneficiaries hired after June 30, 2011. In addition, employee-beneficiaries would be entitled to receive up to ninety percent of Medicare Part B reimbursements, based on the employee-beneficiary's year of years of credited service on June 30, 2011.

The Department of Budget and Finance supports the original language of House Bill No. 1041 (see attachment), which would eliminate the Medicare Part B reimbursement for all retired employee-beneficiaries and their spouses, regardless of the hiring date of the employee.

Currently, there are 22,673 retirees and 7,464 spouses receiving the Medicare Part B reimbursement. Most of the retirees and spouses receive a quarterly benefit of \$289.20, while a small number receive a quarterly benefit of \$1,060.80. Medicare Part B reimbursements are projected to cost the State general fund \$41.7 million in FY 12 and \$46.8 million in FY 13, and are provided even if the spouse may never have been a State or county employee. Eliminating the reimbursement is one way of containing the ever-increasing cost of retiree health benefits paid by State and county employers and, thus, reducing the burden on taxpayers. Furthermore, this measure will facilitate sustainability of benefits under the Hawaii Employer-Union Health Benefits Trust Fund.

Attachment

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. Section 87A-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§87A-23 Health benefits plan supplemental to medicare.**

4 The board shall establish a health benefits plan, which takes
5 into account benefits available to an employee-beneficiary and
6 spouse under medicare, subject to the following conditions:

7 (1) There shall be no duplication of benefits payable
8 under medicare. The plan under this section, which
9 shall be secondary to medicare, when combined with
10 medicare and any other plan to which the health
11 benefits plan is subordinate under the National
12 Association of Insurance Commissioners' coordination
13 of benefit rules, shall provide benefits that
14 approximate those provided to a similarly situated
15 beneficiary not eligible for medicare;

16 ~~[(2) The State, through the department of budget and~~
17 ~~finance, and the counties, through their respective~~
18 ~~departments of finance, shall pay to the fund a~~
19 ~~contribution equal to an amount not less than the~~

H. B. NO. 1041

1 ~~medicare part B premium, for each of the following who~~
2 ~~are enrolled in the medicare part B medical insurance~~
3 ~~plan: (A) an employee beneficiary who is a retired~~
4 ~~employee, (B) an employee beneficiary's spouse while~~
5 ~~the employee beneficiary is living, and (C) an~~
6 ~~employee beneficiary's spouse, after the death of the~~
7 ~~employee beneficiary, if the spouse qualifies as an~~
8 ~~employee beneficiary. For purposes of this section, a~~
9 ~~"retired employee" means retired members of the~~
10 ~~employees' retirement system; county pension system;~~
11 ~~or a police, firefighters, or bandsmen pension system~~
12 ~~of the State or a county as set forth in chapter 88.~~
13 ~~If the amount reimbursed by the fund under this~~
14 ~~section is less than the actual cost of the medicare~~
15 ~~part B medical insurance plan due to an increase in~~
16 ~~the medicare part B medical insurance plan rate, the~~
17 ~~fund shall reimburse each employee beneficiary and~~
18 ~~employee beneficiary's spouse for the cost increase~~
19 ~~within thirty days of the rate change. Each~~
20 ~~employee beneficiary and employee beneficiary's spouse~~
21 ~~who becomes entitled to reimbursement from the fund~~
22 ~~for medicare part B premiums after July 1, 2006, shall~~
23 ~~designate a financial institution account into which~~
24 ~~the fund shall be authorized to deposit~~

H. B. NO. 1041

1 ~~reimbursements. This method of payment may be waived~~
2 ~~by the fund if another method is determined to be more~~
3 ~~appropriate;~~

4 ~~(3) The benefits available under this plan, when combined~~
5 ~~with benefits available under medicare or any other~~
6 ~~coverage or plan to which this plan is subordinate~~
7 ~~under the National Association of Insurance~~
8 ~~Commissioners' coordination of benefit rules, shall~~
9 ~~approximate the benefits that would be provided to a~~
10 ~~similarly situated employee-beneficiary not eligible~~
11 ~~for medicare;~~

12 ~~(4)~~ (2) All employee-beneficiaries or dependent-beneficiaries
13 who are eligible to enroll in the medicare part B
14 medical insurance plan shall enroll in that plan as a
15 condition of receiving contributions and participating
16 in benefits plans under this chapter. This paragraph
17 shall apply to retired employees, their spouses, and
18 the surviving spouses of deceased retirees and
19 employees killed in the performance of duty; and

20 ~~(5)~~ (3) The board shall determine which of the
21 employee-beneficiaries and dependent-beneficiaries,
22 who are not enrolled in the medicare part B medical
23 insurance plan, may participate in the plans offered
24 by the fund."

H.B. NO. 1041

1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on July 1, 2011.
4

5
6 INTRODUCED BY:

Calvin K. Ray

BY REQUEST

JAN 24 2011

H. B. 1041

Report Title:

Hawaii Employer-Union Health Benefits Trust Fund; Medicare
Part B Reimbursements

Description:

To eliminate Medicare Part B reimbursements for retired
employee-beneficiaries and the spouses of employee-beneficiaries
who are retired employees.

H.B. 1041

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

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

PURPOSE: The purpose of this bill is to eliminate Medicare Part B reimbursements for employee-beneficiaries who are retired employees and their spouses.

MEANS: Amend section 87A-23, Hawaii Revised Statutes.

JUSTIFICATION: Section 87A-23, Hawaii Revised Statutes, provides Medicare Part B premium reimbursements to all retirees and their spouses. In fiscal year 2010-2011, this cost totals \$38,600,000 including the cost for spouses of retirees. Reimbursement is provided even if the spouse may never have been a state or county employee.

Impact on the public: Health benefits for state and county retirees and their spouses are funded through general fund appropriations. Any success in containing costs benefits the taxpayer.

Impact on the department and other agencies: These changes are expected to contain the costs of employer contributions for retiree health benefits and better assure some benefit sustainability.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF 761, BUF 765, and BUF 768.

OTHER AFFECTED

AGENCIES:

All Executive Branch agencies, county governments and the Judiciary.

EFFECTIVE DATE:

July 1, 2011.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

H.B. NO. 1041, H.D. 1, RELATING TO THE HAWAII EMPLOYER-UNION
HEALTH BENEFITS TRUST FUND.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, February 25, 2011 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Brian Aburano, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of Attorney General has comments on this bill as currently drafted.

This bill amends section 87A-23, Hawaii Revised Statutes (HRS), to: (1) eliminate Medicare Part B reimbursements for employee-beneficiaries hired after June 30, 2011, and their spouses; and (2) provide an accrual schedule for Medicare Part B reimbursements for employee-beneficiaries who retire with less than ten years of credited service, which we understand includes current employee-beneficiaries.

First, to the extent that the bill seeks to reduce or limit the amount of Medicare Part B reimbursements to be paid to existing state and county employees, retirees, and their spouses, the bill may be challenged as violating article XVI, section 2 of the Hawaii Constitution ("article XVI, section 2"). The Hawaii Supreme Court has held that health benefits for retired state and county employees constitute "accrued benefits" pursuant to article XVI, section 2. See *Everson v. State*, 122 Hawai'i 402, 419 (2010). However, the Court did not decide when or how health benefits for retired state and county employees

accrue nor did it decide whether Medicare Part B reimbursements are a health benefit that accrues under article XVI, section 2. Those issues remain to be decided in pending or future lawsuits.

Second, it is unclear whether the accrual percentages in the proposed subsection (c) apply to the employee-beneficiary's spouse. If so, the wording of subsection (c) should be amended to clarify this aspect of the bill.

Third, an employee-beneficiary does not necessarily receive Medicare Part B reimbursements upon retirement. The employee-beneficiary must be eligible for and enroll in Medicare Part B. Thus, page 4, line 11, and page 4, line 15, of the bill should read "Upon retirement and enrollment in medicare part B . . ."

Fourth, it is unclear what the proviso at page 6, lines 3-4 is meant to accomplish. If the purpose of the proviso is to eliminate subsection (a) (3) because it is duplicative of subsection (a) (1), then it would be better to simply delete the existing subsection (a) (3) and renumber the rest of subsection (a). If the purpose of the proviso is to eliminate the wording requiring approximation of benefits, then subsection (a) (1) also would have to be amended.

Representative Marcus Oshiro, Chair
Representative Marilyn Lee
Finance Committee

Charles T. Duncan – City & County of Honolulu Retiree
94-439 Alapoi Street, Mililani Town 96789
Phone: 393-4764

February 25, 2011

In Opposition of HB 1041 HD 1 Relating to the Hawaii Employer-Union Health Benefits Trust Fund

I'm a City & County of Honolulu retiree who retired from the Honolulu Police Department in 1996 after having put my life on the line for 32 years, in which I earned my pension benefits. I am testifying in opposition to HB 1041 HD 1 Relating to the Hawaii Employer-Union Benefits Trust Fund as it pertains to taking away of Medicare Part B Reimbursements.

The reason for testifying against this bill is for the following reasons;

- All retiree's at the time of their retirement had an implied contract with the City & County of Honolulu and the State of Hawaii to provide them with retirement benefits. At the time of my retirement my Pension Plan benefits which included Medical Plan Benefits were explained to me. I was informed that my medical plan would be covered by the State for my lifetime as well as my wife's which would also be covered. It was further explained that when we reached 65 Medicare would become the primary health coverage and the cost of the Medicare coverage would be reimbursed to each of us as our Social Security benefits would initially paid for the Medicare coverage. The Hawaii State Constitution protects the accrued benefits of a retired State and County employee, and was recently affirmed by the Hawaii Supreme Court (March 25, 2010)
- Without the Medicare Part B Reimbursement, retiree's 65 and older will be unfairly discriminated against, because when a retiree reaches 65 years of age they would now have to pay for a portion of the medical plan coverage from their Social Security benefits. While a retiree's who retired prior to age 65 will continue to have their medical plan coverage fully paid for by the Employer Union Trust Fund. **Therefore by taking away the Medicare Part B Reimbursements we are now being discriminated against by the State.**
- It is further upsetting is that this bill would penalize individuals 65 and older who can least afford the loss of any of the benefits that they receive while living on a fixed income. It seems unfair to target our senior members of the community in an effort to balance budget. Remember that each one of us has a budget to balance and any loss of income, however small it maybe will impact our ability to do that.
- The state already save money on a retiree's medical plan when a retiree enrolls in Medicare, EUTF pays 20 percent and Medicare pays 80 percent. Even with the Medicare reimbursement the state still save money on each retiree 65 and older. An example given

in testimony by Mr. Jim Williams (former EUTF Administrator) it shows when the employer contribution for a single retiree not enrolled in Medicare for HSMA PPO plan was \$398.56 per month as of January 1, 2010. For a single retiree enrolled in Medicare the premium for the same plan was only \$186.04 per month. Those who are not enrolled in Medicare are retirees who have not yet reached 65 years of age. In this example the state pays more than double per month for the early retiree's medical plan. So even with a Medicare Reimbursement of between \$96 to \$115 dollars per month the state comes out way ahead.

- Police Officers already are already being adversely impacted by the Social Security system for having retired from the City & County of Honolulu and receive a government pension, a result of the Federal 1987 Windfall Act, even after having earned the necessary forty quarters to receive full benefits, by having their Social Security benefits reduced to approximately two thirds of what they should have been receiving.
- HB 1041 HD 1 includes thresholds at which reimbursement would be provided beginning at 10 percent for an Employee beneficiary who has more than one year but less than two years and up to 90 percent for an employee beneficiary who has more than nine years but less than 10 years of credited service on June 30, 2011. The bill is not clear on the amount of reimbursement an employee beneficiary would receive who has more than 10 years of credited service on June 30, 2011.

I humbly ask that you not pass HB 1041 HD 1 out of your committee as a means of showing all State Retiree's 65 and older that you care. Please do not balance the budget on the backs of seniors. I would favor a GET increase as it would be fair to all concerned and not single out any particular segment of our society.

Respectfully Submitted

Name: Cynthia "Niyati" Brown, HSTA-R

Committee: Finance

Hearing Date: Friday, February 25, 2011 at 10:00 AM

Place: Conference Room 308 State Capitol 415 S. Beretania St.

Bill: HB1041, HD 1

To: Marcus R. Oshiro, Chair, Marilyn Lee, Vice Chair. and Committee on Finance

Dear Representatives,

Thank you for allowing me to enter testimony into this hearing. I am a recent teacher retiree here in Hawaii. I am greatly concerned about the elimination of Medicare part B reimbursements for retirees. First, in this time of budget cutting, it does not make sense to change a program which is already working. The state saves money currently because Medicare pays first. This saves retirees money. Every penny counts when a retiree is on a fixed income.

Further, this bill would discourage prospective teachers from coming to Hawaii, further eroding the teacher shortage we have experienced for years. Without a good benefit package, lower national average salaries, and high cost of living, we cannot attract the best and brightest to teach in Hawaii.

Whether one is a retired teacher or future retired teacher, this bill cheats teachers out of what they have been promised in the past. Teachers, living on pensions of less than \$200 per month will not be able to afford the increased costs.

I implore you not to take advantage of those weakest financially in Hawaii and burden them with such a proportionally heinous part of their income. Thank you for allowing me to enter this testimony.

Cynthia "Niyati" Brown

FINTestimony

From: Joel Fischer [jfischer@hawaii.edu]
Sent: Wednesday, February 23, 2011 12:17 PM
To: FINTestimony
Subject: HB1041; FIN; 2/25/11; 10AM, RM 308
Importance: High

HB1041, HD 1; Relating to Hawai'i Employer-Union Health
FIN; Chair, Rep Oshiro

PLEASE KILL THIS BILL, MAKE-DIE-DEAD!!

Today's entire agenda (#1) is absolutely frightening to me. I have never seen any set of bills that are more anti-worker and anti-elderly. How can a democratic Governor and Democrat-controlled legislature countenance this attack on your most important constituencies? Even Republican administrations would never submit these attacks on workers and the elderly. **HEWA!**

The budget problems in Hawai'i nei are not the fault of workers and retirees. But there is a clear line of blame for these problems: first, the hundreds of millions of dollars wasted on tax credits that do virtually nothing to create jobs, and, second, the tax changes introduced in faux-liberal Ben Cayetano's regime that absolutely robbed the state of hundreds of millions of tax dollars from the rich under the absolutely false assumptions of the trickle-down theory.

Until the Governor and Legislature really attack these inequities, I am unalterably opposed to the bills on today's agenda.

"Everybody" sharing the burden does NOT mean only the poor, elderly and state workers!!

Aloha, joel

Dr. Joel Fischer, ACSW
Professor (Ret.)
University of Hawai'i, School of Social Work
Henke Hall
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill

It is better to be "over the hill" than under it.
Anonymous

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 24, 2011 12:37 PM
To: FINTestimony
Cc: arakakie003@hawaii.rr.com
Subject: Testimony for HB1041 on 2/25/2011 10:00:00 AM

Testimony for FIN 2/25/2011 10:00:00 AM HB1041

Conference room: 308
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Earl Arakaki
Organization: Individual
Address:
Phone:
E-mail: arakakie003@hawaii.rr.com
Submitted on: 2/24/2011

Comments:
Representative Oshiro and members of the House Finance Committee.

I Testify in opposition to House Bill 1041 in any form.

Governor Abercrombie said Medicare Part B reimbursement is a "bonus." That is not true.

This reimbursement is part of an accrued benefit earned for past work during years of mediocre pay.

Public worker retirees during their working years were paid inferior pay but stayed on the job because of enhanced pension and health benefits.

There is a continuing pattern of lawmakers jeopardizing public workers and retirees futures to balance the states budget.

This pattern started in the mid-60's to 1997, as lawmakers routinely skimmed State of Hawaii Employees Retirement System (ERS) investment earnings over 8% to balance the state budget. A total of over \$1.3 billion.

1997, Cayetano and lawmakers passed Act 327 to stop skimming only to return in 1999 with Act 100 to retroactively "skim" \$347 million. SHOPO sued in 2002 for the return of that money. That money has never been replaced.

1999, Act 136 was passed "requiring all retirees and their spouses who become eligible for federal Medicare Part B medical plan coverage after June 24, 1999, to enroll in that federal benefit plan, and the Health Fund's Medicare Supplement Plan regardless if they are still working. (Hawaii Public Employees Health Fund News Bulletin July 2000, page 1) Steering retirees to an inferior health coverage from the superior previous health plan. Continuing the pattern of "skimming" to balance the state's budget.

2000, a long-standing five-year retirement inflation adjustment was eliminated. Then Governor Cayetano said "the ERS can't afford it." This five-year adjustment was in addition to ERS pensioners set amount every July. They couldn't afford it because the Legislators and Governor took \$347 million the previous year. Thus the pattern continued.

2001, Act 88; Claiming changes were needed to continue funding health care, politicians led by Cayetano and then Sen. Hanabusa did away with union health funds for active employees, and the Hawaii Public Employees Health Fund for other employees and retirees and created the Employee-Union Health Benefits Trust Fund (EUTF). This moved actives and retirees from a defined benefit health plan, to a defined contribution health plan. I.e. state paid for best defined health plans under the former system which "shall not be diminished or impaired" per the Hawaii Constitution, to a diminishing defined contribution health plan based on what the Gov. and Legislature appropriates to spend on health plans. I.e. They tell EUTF here is the money now go shop around. Which is the reason health coverage has eroded over the years. Less money, lesser health plan continuing the pattern of balancing the budget to the detriment of ERS retirees.

2002, Lawmakers couldn't skim anymore so exploiting the effects of 9-11, Cayetano and the Legislature passed Act 147 (HB2460) to prolong the states unfunded liability payments to the ERS to justify a new version of "skimming" by extending the states unfunded liability to the ERS to 2030. By 2024 it is estimated the state will still owe the ERS \$1.3 billion. From 1966 to 2000, ERS investments were good. Except for two years of negative returns on investments, 1984 (-.5%), 2001 (-6.7%). Thus conning the pattern.

2002, Act 128, Revamped retirement calculations. Requires employees retire only on the first day of each month. Limits "high three" calculations to calendar years, or last 36 months of employment if an employee retires at the end of the year and reduce pension payments to once a month. Many retirees will lose hundreds of dollars each month in payments.

2010, Every ERS retiree will be paid once a month.

2011, Gov. Abercrombie now attempts to continue the pattern of balancing the states budget to the detriment of ERS retirees by telling everyone the ERS unfunded liability is in terrible shape implying it is retirees fault and retirees should feel guilty for drawing a pension. The present condition of the ERS unfunded liability is simply because the state refused to properly fund ERS by continuing a pattern of balancing the state budget to the detriment of ERS retirees.

Now, Governor Abercrombie introduces HB1041 & SB1268; another method to erode public workers benefits by not reimbursing Medicare Part B. For ERS retirees age 65 and over, Medicare Part B is now the primary inferior main coverage and HMSA/Kaiser/HMA etc. secondary coverage. Upon attaining age 65 retirees are forced into Medicare Part B as required under Act 136 of 1999, or lose health care coverage. The reimbursements are in keeping with covering our "accrued benefits" under a "contractual relationship" pursuant to Art. 16 (2) of the Hawaii Constitution. This is not a "bonus" as Abercrombie says.

Non reimbursement of Medicare Part B hits police officers, fire fighters, certain ocean lifeguards, and certain sewage workers, doubly hard as they don't contribute to Social Security during their working years. Since they didn't pay in they don't get Social Security.

Should they desire Social Security these retirees must continue working another job beyond retirement. Even if they chose to work after retirement and when they collect their Social Security they are impacted by Government Pension Offset and Windfall Elimination Provisions of the Social Security Act. Unless they work more than 30 years beyond their police or firefighter careers as much as 60 per cent off the top of their Social Security pensions they do not get. For the average retiree Medicare Part B is deducted from their Social Security check. In the case of those mentioned occupations who don't collect Social Security pension payments from which Medicare Part B payments are normally deducted for the Medicare Part B

they are forced by EUTF to purchase, these retirees Medicare Part B are paid for via automatic deductions from their personal checking accounts.

I asked this committee to not pass HB1041 in any form.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 24, 2011 3:06 PM
To: FINTestimony
Cc: garrypsmith@juno.com
Subject: Testimony for HB1041 on 2/25/2011 10:00:00 AM

Testimony for FIN 2/25/2011 10:00:00 AM HB1041

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Garry P. Smith
Organization: Individual
Address:
Phone:
E-mail: garrypsmith@juno.com
Submitted on: 2/24/2011

Comments:

I am opposed to changing the rules in the middle of the game. Current retirees need to have their medicare part B retained. Changing the rules endangers those currently receiving reimbursement as this bill can be altered as it goes through committee to include current retirees.