

HB 1041
HD2, SD2
PROPOSED



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

ON THE FOLLOWING MEASURE:

H.B. NO. 1041, H.D. 2, S.D. 2, RELATING TO THE HAWAII EMPLOYER-
UNION HEALTH BENEFITS TRUST FUND.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, April 5, 2011 **TIME:** 9:15 a.m.

LOCATION: State Capitol, Room 211

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

Chair Ige and Members of the Committee:

The Department of Attorney General has comments on this proposed bill S.D. 2 as currently drafted.

The proposed bill amends section 87A-33, Hawaii Revised Statutes (HRS). It provides that, effective July 1, 2011, the base monthly contribution for retiree health benefits plans that the State and counties would pay to the Hawaii Employer-Union Health Benefits Trust Fund ("EUTF") shall not exceed the amount of the monthly medicare part B premium paid by persons in the lowest income level recognized by medicare part B. See page 5, lines 9-15 of the proposed bill.

To the extent that the proposed bill seeks to reduce the amount of base monthly contribution applicable to existing state and county employees and retirees, 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 Hawaii 402, 419 (2010). It should be noted, however, that the Court did not decide when or how

health benefits for state and county employees accrue, nor did it decide exactly what constitute health benefits that accrue under article XVI, section 2. Those issues remain to be decided in pending or future lawsuits.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1041, H.D. 2, PROPOSED S.D. 2

April 5, 2011

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

House Bill No. 1041, H.D. 2, Proposed S.D. 2, limits contributions paid by the State and counties for the health benefit plans of retired employees to the amount of the monthly Medicare Part B premium paid by persons in the lowest income level recognized under Medicare Part B. This amendment will be effective July 1, 2011.

The Department of Budget and Finance believes that at a minimum, the Medicare Part B reimbursement amount should be capped at the current lower reimbursement level of \$96.40 per month, 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. Capping 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.

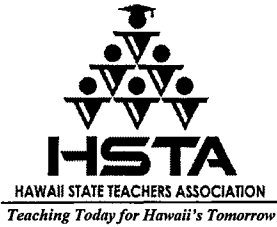
TESTIMONY BY BARBARA CORIELL
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1041, H.D. 2 Proposed S.D. 2
RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

April 5, 2011

While the Hawaii Employer-Union Health Benefits Trust Fund Board of Trustees has not taken a position on the proposed S.D. 2, I would like to bring to your attention that if your intention is to cap the Medicare Part B reimbursement to retirees and their spouses to the lowest Medicare Part B monthly premium, I believe that proposed S.D. 2 will do more than is intended.

The proposed S.D. 2 amends section 33 of chapter 87-A of the revised statutes. Section 33 covers the base monthly contribution and is related to monthly premiums that are paid for retirees' health plans, not Medicare Part B reimbursements. I believe the appropriate section of chapter 87A that should be amended to cap Medicare Part B reimbursements is section 23.

Thank you for the opportunity to testify.



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

Wil Okabe
President

Karolyn Mossman
Vice President

Joan Kamila Lewis
Secretary-Treasurer

Alvin Nagasako
Executive Director

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS**

**RE: HB 1041, HD2, SD1, PROPOSED SD2 -- RELATING TO THE HAWAII
EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.**

TUESDAY, APRIL 5, 2011

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

Chair Ige and Members of the Committee:

The Hawaii State Teachers Association has concerns regarding HB 1041, HD2, SD1, Proposed SD2. As written, HB1041, HD2, SD1, Proposed SD2, effective July 1, 2011, is inclusive of all State employees.

This bill, as written, is inclusive of all state employees. It is our understanding that state employees presently in service are accruing retirement benefits which include the reimbursement of Medicare Part B. Has the Attorney General's Office issued a ruling that would exempt the state from reimbursing Medicare Part B at the rate deducted for present and future retirees? It is HSTA's understanding that benefits cannot be diminished. This bill, as written, does diminish benefits.

Thank you for the opportunity to testify.



A F S C M E
LOCAL 152, AFL-CIO

888 Mililani Street, Suite 601
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000
Facsimile: 808.528.4059

www.hgea.org

The Twenty-Sixth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
April 5, 2011

HB 1041, HD2, SD1 – RELATING TO
THE HAWAII EMPLOYER-UNION
HEALTH BENEFITS TRUST FUND

The Hawaii Government Employees Association (HGEA) Retirees Unit, AFSCME Local 152, AFL-CIO strongly supports HB 1041, HD2, SD1, as it now stands. This bill will affect only those prospective government employees hired after June 30, 2011, and will not affect any retirees and their spouses who currently receive reimbursement for their Medicare part B premiums.

However, we oppose the proposed SD2 to HB 1041 which would limit the Medicare part B premium reimbursements paid to all retirees to the lowest premium amount deducted under the Medicare program. Article XVI, section 2 of the Hawaii State Constitution clearly states that any accrued benefit that is due to a government retiree may not be diminished or impaired. There are a number of retirees who currently receive reimbursements that are higher than the lowest Medicare part B premium amount. To the extent that the proposed SD2 would reduce the reimbursement to those retirees to the lowest Medicare premium amount, SD2 would impair a retirement benefit they currently receive, in violation of Article XVI, section 2 of the Hawaii State Constitution.

Thank you for the opportunity to testify in support of HB 1041, HD2, SD1 and to oppose proposed SD2.

Respectfully submitted,

Derek Mizuno
Deputy Executive Director



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

**TESTIMONY ON HOUSE BILL 1041, HOUSE DRAFT 2, SENATE DRAFT 2, RELATING TO THE HAWAII
EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**

**Senate Committee on Ways and Means
Hon. David Y. Ige, Chair
Hon. Michelle Kidani, Vice Chair**

**Tuesday, April 5, 2011, 9:15 AM
State Capitol, Conference Room 211**

Honorable Chair Ige and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 60 local members. On behalf of our members, we offer this testimony in opposition to the proposed draft of HB 1041, HD2, SD2, relating to the Hawaii Employer-Union Health Benefits Trust Fund.

Currently, the state of Hawaii is experiencing a crisis in how to pay for underfunded future liabilities, including the Employer-Union Health Benefits Trust Fund (EUTF). Unlike the Employee Retirement System, EUTF has no money set aside in advance to subsidize its annual disbursement. At the same time, payments from the fund are expected to rise sharply over the next few years, from \$421 million in 2010, to \$479 million in 2011, \$487 million in 2012, and \$528 million in 2013. Medicare Part B reimbursements are a large percentage of allocated resources and projected increases, set to cost the state an estimated \$41.7 million in fiscal year 2012 and \$46.8 million in fiscal year 2013, according to Department of Budget and Finance Director Kalbert Young.

Unfortunately, this bill caps contributions paid by the state and counties for health benefit plans of retired employees to the amount of the monthly Medicare Part B premium paid by persons in the lowest income level recognized under the program. For anyone whose benefits exceed this amount, namely those in higher income brackets, however, questions can, and likely will, be asked about whether or not such a move violates Article XVI, Section 2 of the Hawaii State Constitution, which states, "Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, **the accrued benefits of which shall not be diminished or impaired.**"

Nonetheless, EUTF projections assume no variance in employee population and the ratio of payers to payees is dropping rapidly. Since the state is buckling under an anticipated \$1.3 billion biennium budget shortfall, it is imperative that lawmakers restructure local entitlements to ensure their

existence for future generations. Abolishing prospective reimbursements—that, as Gov. Abercrombie has indicated, are duplicated under social security—saves revenue and, thus, reduces the possibility of having to dramatically increase taxes at a later date, when the road to recovery becomes a one-way street. Accordingly, we support passage of an earlier version of this bill, HB 1041, HD2, SD1, which eliminated benefits for future employees only.

Mahalo for the opportunity to testify in opposition to this draft.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Ways and Means (WAM)

Charles T. Duncan
Honolulu Police Department, Major (retired)
94-439 Alapoi Street, Mililani Town 96789
Phone: 393-4764

April 5, 2011

In Opposition to HB1041 HD2 SD2 Relating to the Hawaii Employer-Union Health Benefits Trust Fund

I'm a retired Honolulu Police Department Major who retired after serving the State and the City and County of Honolulu for 32 years. I am testifying in opposition to HB1041 HD2 SD2 as it relates to the Hawaii Employer-Union Benefits Trust Fund as it pertains to limiting the amount of contributions paid by the State and Counties.

While I can support the intent of this current draft as it looks to ensure that the EUTF will receive the necessary funds from the State and Counties to provide for the Medicare Part B reimbursement rather than the take away the earlier drafts called for I do have concerns.

The present draft by limiting the amount of the monthly Medicare Part B paid for by persons to n the lowest income level (\$96.40) would continue to be a take away for any retiree who is paying the higher premiums. That would violate Section 2 Article XVI of the Hawaii State Constitution which prohibits any accrued benefit that is due to a government retiree not be diminished or impaired.

Additionally current state law, section 87A-23 of the Hawaii Revised Statues provides that the State "shall" pay an amount equal to the Medicare part B premium paid by the retiree while he or she is alive, his or her spouse is alive, and his or her surviving spouse during the spouse's lifetime.

In conclusion I oppose any change to current state law as it pertains to the reimbursement of Medicare Part B premiums paid for by the retiree.

Respectfully submitted

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, April 02, 2011 12:44 AM
To: WAM Testimony
Cc: swartzg001@hawaii.rr.com
Subject: Testimony for HB1041 on 4/5/2011 9:15:00 AM

Testimony for WAM 4/5/2011 9:15:00 AM HB1041

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: gregory swartz
Organization: Individual
Address:
Phone:
E-mail: swartzg001@hawaii.rr.com
Submitted on: 4/2/2011

Comments:

To the extent that this Proposal attempts to cap Medicare Part B reimbursements for current retirees it is unconstitutional. It is also unfair because it breaks a promise made to the State and county employees when they were hired and agreed to public service.

From: Joel Fischer [jfischer@hawaii.edu]
Sent: Sunday, April 03, 2011 1:24 PM
To: WAM Testimony
Subject: HB1041; WAM; 4/5/2011; 9:15AM, Rm 211

Importance: High

HB1041, HD 2, SD2; Relating to Hawai`i Employer-Union Health Benefits
WAM; Chair, Sen Ige

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

I have never seen any set of bills -including HB1041 and SB570- 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 Part B reimbursements are the result of retirees being **REQUIRED** to purchase Medicare Part B because doing so saves money for the state. How hypocritical it is now to stop reimbursing that required expense!

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

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 03, 2011 6:08 PM
To: WAM Testimony
Cc: garrypsmith@juno.com
Subject: Testimony for HB1041 on 4/5/2011 9:15:00 AM

Testimony for WAM 4/5/2011 9:15:00 AM HB1041

Conference room: 211
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Garry P. Smith
Organization: Individual
Address:
Phone:
E-mail: garrypsmith@juno.com
Submitted on: 4/3/2011

Comments:

It is obviously unconstitutional to change the benefits provided to state retirees. To now "cheat" the EUTF out of full reimbursement is similarly unconstitutional. If the state requires state retirees to take out medicare part B, then the state retirement system has to repay them for that requirement. You are merely passing on the cost to the retirees which is wholly unconstitutional.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 04, 2011 8:18 AM
To: WAM Testimony
Cc: goodhone@gmail.com
Subject: Testimony for HB1041 on 4/5/2011 9:15:00 AM

Testimony for WAM 4/5/2011 9:15:00 AM HB1041

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Virgil Medeiros
Organization: Individual
Address:
Phone:
E-mail: goodhone@gmail.com
Submitted on: 4/4/2011

Comments:
I am in opposition to proposed SD2.

From: Melvin Whang [msywhang@gmail.com]
Sent: Saturday, April 02, 2011 11:23 AM
To: WAM Testimony
Subject: SD2

----- Forwarded message -----

From: Melvin Whang <msywhang@gmail.com>
Date: Sat, Apr 2, 2011 at 11:17 AM
Subject: SD2
To: WAMTestimony@captiol.hawaii.gov

The Honorable Senator David Y. Ige & Ways and Means Committee Members:

I thank each of you for your efforts is assisting current and future retirees relating to the Hawai'i Employee-Union Benefits Trust Fund. I support Senate Bill SD2 and trust that you and members of your committee will agree and pass this Bill on behalf of State, City & County Retirees. The Medicare premium refund helps "us" tremendously. Our daily expenses keep rising daily, monthly and annually. There is to corner one can turn without having to more while income rises as a snail's pace.

Again, Mahalo Nui Loa for your positive consideration and I look forward to seeing each of you at Tuesday's hearing.

Most Sincerely,

Melvin S. Y. Whang

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 04, 2011 2:34 PM
To: WAM Testimony
Cc: arakakie003@hawaii.rr.com
Subject: Testimony for HB1041 on 4/5/2011 9:15:00 AM

Testimony for WAM 4/5/2011 9:15:00 AM HB1041

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Earl Arakaki
Organization: Individual
Address:
Phone:
E-mail: arakakie003@hawaii.rr.com
Submitted on: 4/4/2011

Comments:

Senate Committee on Ways And Means
April 5, 2011

House Bill 1041 SD2, Testimony In Opposition by Earl Arakaki, Retired, Honolulu Police Department Ewa Beach, HI, 96706

Senator David Ige, and members of the Senate Ways and Means Committee;

I am opposed to House Bill 1041 SD2. It is wrong for the state and counties to limit funding the Employee-Union Health Benefits Trust Fund System (EUTF) based on the lower amount of Medicare Part B, and not account for the higher Medicare Part B payments. HB1041 SD2 in its present form continues a long pattern of jeopardizing public worker retirees by underfunding state and county workers benefit plans. Hawaii's lawmakers for decades skimmed the Hawaii Employees Retirement System (ERS), to underfunding the ERS, to forcing public worker retirees to purchase Medicare Part B or lose their accrued benefit health care, to the creation of the EUTF itself which resulted in inferior health plans. All these previous schemes to balance the budget to the detriment of public worker retirees. Presently, the EUTF Board has grave concerns regarding balancing their budget to maintain members required levels of health care.

Do not underfund the EUTF.

MahaIo

/s/Earl Arakaki

From: wally.h.nishiguchi@hawaiiantel.net
Sent: Monday, April 04, 2011 3:38 PM
To: WAM Testimony
Subject: Oppose SD2

Ways and Means Committee,

I oppose removing the reimbursement for Medical Part B. I will be 65 in May, 2011 and currently receive as a retirement benefit 50% medical payment by the EUTF. I'm told that I will be paying \$177.90 for single medical benefit starting in May and hope that I will be reimbursed for my medical part B. My wife and I continue to support my son who is college and working part-time and my granddaughter who lives with us. With continued escalating expenses, it will place another financial and mental burden if we don't receive the reimbursement.

Thank you for listening.

Wally Nishiguchi
Retired

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 04, 2011 6:44 PM
To: WAM Testimony
Cc: bernie5miranda@gmail.com
Subject: Testimony for HB1041 on 4/5/2011 9:15:00 AM

Testimony for WAM 4/5/2011 9:15:00 AM HB1041

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: bernie miranda
Organization: Individual
Address:
Phone:
E-mail: bernie5miranda@gmail.com
Submitted on: 4/4/2011

Comments:

L A T E

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 04, 2011 4:51 PM
To: WAM Testimony
Cc: yoshitomt001@hawaii.rr.com
Subject: Testimony for HB1041 on 4/5/2011 9:15:00 AM

Testimony for WAM 4/5/2011 9:15:00 AM HB1041

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Kathleen Yoshitomi
Organization: Individual
Address:
Phone:
E-mail: yoshitomt001@hawaii.rr.com
Submitted on: 4/4/2011

Comments: