

**SB 1066**

**SD 1**

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON  
SENATE BILL NO. 1066, S.D. 1

March 1, 2011

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

Senate Bill No. 1066, S.D. 1, makes the following amendments to Chapter 87A, Hawaii Revised Statutes, which governs the Hawaii Employer-Union Health Benefits Trust Fund:

- Exempts the Hawaii Employer-Union Health Benefits Trust Fund from the procurement code in procuring benefit plan carriers, consultants, auditors and an administrator.
- Allows the Hawaii Employer-Union Health Benefits Trust Fund to retain an attorney who is independent of the Department of the Attorney General as legal advisor.
- Increases the members of the Hawaii Employer-Union Health Benefits Trust Fund Board of Trustees from 10 to 12 and changes the Hawaii Employer-Union Health Benefits Trust Fund Board membership and terms.
- Allows the creation of sub-boards should a bargaining unit negotiate a specific contribution to apply only to that bargaining unit.
- Requires active employee benefit plans to be based on collectively bargained contributions and retiree benefit plans to be based on legislative appropriations.

- Transfers the Hawaii Employer-Union Health Benefits Trust Fund from the Department of Budget and Finance to the Department of Human Resources Development.

We are opposed to this bill. First, the department has serious concerns with the modifications to the composition of the Hawaii Employer-Union Health Benefits Trust Fund Board. Specifying that the five other employer board members represent five different jurisdictions severely dilutes the Governor's ability to look out for the State's interest and results in each employer trustee representing a disproportionate share of the employer group. While we are not specifically opposed to adding county representation to the board, allowing the Mayor of the City and County of Honolulu to appoint an employer board member and the mayors of the County of Hawaii, Kauai and Maui to appoint another employer board member is not reflective of the Hawaii Employer-Union Health Benefits Trust Fund membership. Currently, State employees make up approximately 77% of the Hawaii Employer-Union Health Benefits Trust Fund members. It is not clear what role the retiree beneficiary board member has in voting. The retiree beneficiary member represents retiree interests and, as such, should be part of the employee group (as is currently the case), which represents beneficiaries, for voting.

Given the Governor's overall responsibilities for managing State government and State finances, the Governor should appoint the majority of employer board members without regard to specific employer jurisdictions. However, if board members are to be added, we strongly suggest a neutral member. A neutral eleventh member would facilitate working through the Hawaii Employer-Union Health Benefits Trust Fund Board deadlocks and balance the needs of both employer and employee interests.

Second, we believe the creation of the Hawaii Employer-Union Health Benefits Trust Fund Board sub-boards will create administrative complexities and inefficiencies and result in substantially higher rates for employees who are not members of sub-groups with favorable demographics. We believe a uniform benefit package will promote fairness and consistency among employees in the workplace.

Third, we strongly believe that the Department of the Attorney General is better suited to ensure that long-term State interests are protected rather than an outside attorney. The staff of the Department of the Attorney General can bring a broad background of familiarity with the Hawaii Employer-Union Health Benefits Trust Fund and other State statutes at a lower cost than an outside legal firm. Cost of an outside attorney will have to be borne by the public employers and plan participants.

Fourth, requiring benefit plans to be based on collectively bargained amounts rather than determining collectively bargained amounts based on plan designs established by the Hawaii Employer-Union Health Benefits Trust Fund is problematic. Such an approach could result in material fluctuations in plan benefits from year to year and could make it difficult to design benefit plans that meet the needs of beneficiaries. This change may also cause administrative difficulties such as completing plan design and negotiating with vendors in sufficient time for open enrollment periods, especially given the history of completing negotiations very late in plan delivery cycle. Similarly, for retirees, requiring that the plans be based on approved appropriations may also cause difficulties in completing plan design and bidding/negotiating with vendors in sufficient time for open enrollment periods.

Finally, given the fiscal complexities involved and the size of the Hawaii Employer-Union Health Benefits Trust Fund expenditures in relation to the total State budget, transferring the Hawaii Employer-Union Health Benefits Trust Fund to the Department of Human Resources Development may not be in the best interest of the State or the Hawaii Employer-Union Health Benefits Trust Fund at this time. The Abercrombie Administration support provided to the Hawaii Employer-Union Health Benefits Trust Fund includes financial background and support that may be better situated in the current Budget and Finance structure.

We are not opposed to exempting the Hawaii Employer-Union Health Benefits Trust Fund from Chapter 103D, Hawaii Revised Statutes.



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**COMMENTS  
OF  
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STATE PROCUREMENT OFFICE**

**TO THE  
SENATE COMMITTEE  
ON  
WAYS AND MEANS**

March 1, 2011

9:20 AM

SB 1066, SD 1

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

Chair Ige, Vice-Chair Kidani and committee members, thank you for the opportunity to comment on SB 1066, SD 1. Our testimony is limited to SECTION 1, page 1, lines 4 to 7 of the bill.

The State Procurement Office (SPO) opposes the amendment in SECTION 1 which proposes to exempt the Hawaii Employer-Union Benefits Trust Fund from HRS chapter 103D, the Hawaii Public Procurement Code (Code).

Public procurement's primary objective is to give everyone equal opportunity to compete for Government contracts; to prevent favoritism, collusion or fraud in awarding of contracts. The true nature of competition gives government agencies the benefits of knowing that the acquiring of goods and services were conducted in a fair and objective manner. Meeting this objective requires a single set of statutes and rules that define and mandate the use of selection processes that are competitive, efficient, fair, transparent, open and impartial.

Statutory exemptions for specific agencies are contrary to the Hawaii Public Procurement Code, section 103D-102, HRS, on the applicability of the chapter that states in part "... shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, ..." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition and increases public confidence in public procurement.

SB No. 1066, SD 1  
Senate Committee on Ways and Means  
March 1, 2011  
9:20 AM  
Page 2

The SPO opposes statutorily exempting specific agencies from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable process for award of contracts. The competitive procurement processes of the Code are to insure that all potential providers are afforded the opportunity to compete for the required services. To the extent agencies may need specific purchases to be exempted from Code requirements, the Code provides an exemption process on a case by case basis as opposed to a total blanket statutory exemption.

The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic and confusing to vendors, contractors and service providers that must comply with a variety of different processes and standards. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, we must participate in the process with one set of statutes and rules. To legislate that any one entity should be exempt from compliance with the procurement code conveys a sense of disproportionate equality in the law's application.

If the Legislature intends to exempt specific programs or funds from the Code, the exemption should include assurances that the agency's exempt process includes fair and open competition, disclosure, transparency, due process for aggrieved parties, a defined selection and awards process, and the various elements contained in the Code to ensure public confidence that the exempt procurement process is as fair as the Code.

We request that SECTION 1 of the bill be deleted. Thank you.