

Honolulu, Hawaii

Feb 16 , 2012

RE: H.B. No. 1168  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 1168 entitled:

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

begs leave to report as follows:

The purpose of this measure is to improve the operations and efficiency of the Hawaii Employer-Union Health Benefits Trust Fund by, among other things:

- (1) Exempting the procurement of services of a carrier, third-party administrator, consultant, actuary, auditor, or administrator from the State Procurement Code;
- (2) Providing for fiduciary responsibilities of the Board of Trustees of the Trust Fund;
- (3) Establishing liability for Board members who willfully violate their fiduciary responsibilities;
- (4) Altering the composition, and method of selection, of Board members, and quorum requirements for the Board;
- (5) Allowing individual unions and employers to establish a sub-trust and a sub-board of trustees to administer that bargaining unit's contributions and benefits if the



union and employer negotiate a specific contribution to apply only to that unit;

- (6) Allowing the Board to appoint or retain legal counsel who is independent of the Attorney General;
- (7) Amending the basis on which health and benefit plans shall be provided to beneficiaries; and
- (8) Administratively placing the Trust Fund within the Department of Human Resources Development rather than the Department of Budget and Finance.

The Hawaii Government Employees Association, University of Hawaii Professional Assembly, and Hawaii Firefighters Association testified in support of this measure. The Department of Human Resources of the City and County of Honolulu testified in support of the intent of this measure. The Department of the Attorney General testified in opposition to this measure. The Department of Budget and Finance, Department of Human Resources Development, and State Procurement Office opposed this measure in part. The Administrator of the Hawaii-Employer Union Health Benefits Trust Fund provided comments.

The State of Hawaii and the counties provide healthcare benefits to public employees, retirees, and their dependents through the Hawaii Employer-Union Health Benefits Trust Fund. As an agency of the State, the Trust Fund contracts with providers of medical, dental, vision, and life insurance plans to provide these benefits.

However, concerns have been raised that the Trust Fund is not operating as originally intended, leading to contentious issues resulting in serious problems for State and county employees and their employers. Your Committee finds that to resolve these problems and increase the effectiveness and efficiency of the Trust Fund, significant changes need to occur. This measure attempts to make these changes.

Your Committee has amended this measure by:

- (1) Removing language exempting the Trust Fund from the State Procurement Code;
- (2) Specifically defining the fiduciaries of the Trust Fund;



- (3) Stipulating that fiduciaries of the Trust Fund shall comply with all fiduciary duties under the Employee Retirement Income and Security Act and referencing the Employee Retirement Income and Security Act rather than naming the specific duties;
- (4) Expanding the Board to include fourteen members;
- (5) Moving the retiree beneficiary representative on the Board from the group representing employers to the group representing employee-beneficiaries;
- (6) Changing the procedure for appointing individuals to the Board to represent employee-beneficiaries by requiring the exclusive representative or group of exclusive representatives of specified bargaining units, as the case may be, to submit a list of three individuals to the Governor from which the Governor shall choose one individual as the representative;
- (7) Allowing the Governor to appoint two additional members to the Board to be placed in the group representing employers;
- (8) Removing language allowing individual unions and employers to establish a sub-trust and a sub-board of trustees under certain circumstances;
- (9) Maintaining the current terms of Board members and replacement procedures for vacancies on the Board but requiring the Governor to choose the replacement board member from a list of three candidates rather than a list of two candidates;
- (10) Specifying procedures related to the transfer of the Trust Fund from the Department of Budget and Finance to the Department of Human Resources Development; and
- (11) Inserting a Savings Clause.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1168, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1168, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



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KARL RHOADS, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSCR 521-12

**Record of Votes of the Committee on Labor & Public Employment**

Bill/Resolution No.: <b>HD 1168</b>	Committee Referral: <b>LAB, FIN</b>	Date: <b>2-7-12</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. YAMASHITA, Kyle T. (VC)	/			
3. AQUINO, Henry J.C.	/			
4. CULLEN, Ty	/			
5. ICHIYAMA, Linda	/			
6. LEE, Marilyn B.	/			
7. LUKE, Sylvia	/			
<del>8. OKAMURA, Tom</del>				
9. SAIKI, Scott K.				/
10. SOUKI, Joseph M.				/
11. TAKUMI, Roy M.	/			
12. FONTAINE, George R.		/		
13. JOHANSON, Aaron Ling		/		
<b>TOTAL (13)</b>	<b>8</b>	<b>2</b>	<b>-</b>	<b>2</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small style="margin-left: 100px;">committee acronym(s)</small>				
Vice Chair's or designee's signature:				
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