



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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**TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE
HOUSE COMMITTEE
ON
LABOR & PUBLIC EMPLOYMENT**

January 28, 2011

9:00 A.M.

HB No. 167

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

Chair Rhoads, Vice-Chair Yamashita and committee members, thank you for the opportunity to testify on HB 167. Our testimony is limited to SECTION 32 of the bill.

The State Procurement Office (SPO) opposes the amendment in SECTION 32 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.

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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 32 of the bill be deleted. Thank you.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR

January 28, 2011

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

Dear Chair Rhoads and Members:

Subject: House Bill 167
Relating to the Hawaii Employer-Union
Health Benefits Trust Fund

The Department of Human Resources, City & County of Honolulu, **strongly opposes** House Bill No. 167, which would dilute the statutory authority and obligations already vested with the Employer-Union Health Benefits Trust Fund. The measure also seeks to remove the authority the legislature currently has to make a decision regarding the amount of employer contributions, should the public employers and various public unions be unable to reach an agreement. Moreover, the measure would likely have an unforeseen negative financial impact to public employees as health care and administrative costs will likely increase if health care providers are required to craft separate health care plans for the various bargaining unions. Finally, the unyielding restriction on the timeframe for the impasse procedures infringes on the spirit of collective bargaining by eliminating the parties ability to collectively agree to an extension of deadlines should circumstances warrant such action.

Thank you for giving us the opportunity to testify.

Yours truly,

A handwritten signature in cursive script, appearing to read "Noel T. Ono".

Noel T. Ono
Director



House Committee on Labor & Public Employment
Friday, January 28, 2011
9:00 a.m.

HB 167, Relating to the Hawaii Employer-Union Health Benefits Trust Fund.

Dear Chairperson Rhoads and Committee Members:

On behalf of the Board of Directors of the University of Hawaii Professional Assembly (UHPA), our union is strongly committed to working with the legislature to reform and alter the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) that provides health insurance coverage to public employees. UHPA is familiar with the proposal found in HB 167 which allows the opportunity to reengage in a substantive discussion of bringing positive changes to EUTF. These are fundamental principles that we believe should guide the reform of EUTF.

UHPA is encouraged that HB 167 incorporates two important components that will assist in reform: Establishing thirteen discrete bargaining unit trust funds that will allow for shared benefit plan under the same state or county employer; and allowing the issue of health benefits to be subject to impasse procedures including arbitration or the right to strike for those bargaining units with such rights.

There are additional principles that we hope will guide further discussion to improve the EUTF. Paramount to a sound plan is that any health benefit trust must operate under ERISA standards. The trustee's responsibility is to the beneficiaries served by the trust. These trusts are permanently segregated from the employer and the union, and they would remain under the control of the trustees. A dispute mechanism that addresses impasse within the EUTF Trustees should be established to ensure that vital decisions can be made and implemented to diminish uncertainty for beneficiaries.

UHPA supports the full negotiations of employee health benefits including the plan, carrier, and employer contribution. This allows health benefit plans to accurately address the specific needs of a group of employees. It also allows an appropriate balance between wages and benefits to recognize the tax advantages of receiving benefits in lieu of wages.

UHPA looks forward to working on these critical pieces of reform legislation to improve the operations and effectiveness of providing health benefits to public employees.

Thank you for your consideration.

Respectfully submitted,

Kristeen Hanselman
Associate Executive Director

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

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TESTIMONY BY KALBERT K. YOUNG
INTERIM DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 167

January 28, 2011

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

House Bill No. 167 makes the following amendments to Chapter 87A, Hawaii Revised Statutes, which governs the Hawaii Employer-Union Health Benefits Trust Fund and Chapter 89, which governs collective bargaining for public employees:

- Creates 13 bargaining unit health benefits trust funds with each fund having oversight by separate seven-member boards with nominees appointed by the Governor from a list of nominees submitted by the exclusive representative organization, and allows two or more funds to work jointly.
- Renames the Hawaii Employer-Union Trust Fund to the Hawaii Public Employee Health Benefits Trust Fund, for active public employees not belonging to a collective bargaining unit, and all retirees; and modifies the board composition to seven members, three appointed by the Governor, two appointed by the President of the Senate, and two appointed by the House of Representatives.
- Adds new sections on fiduciary duties and prohibited transactions and liability for breach of fiduciary duties for board members.
- Allows the bargaining health benefits trust funds to retain an attorney who is independent of the Department of the Attorney General as legal advisor.
- Requires the new non-managerial employees of the Public Employee Health Benefits Trust Fund be subject to Chapter 76 (Civil Service).

- Removes provision that the cost of the benefit plans be affordable.
- Changes the statutory impasse date from February 1 in the year in which an agreement is due to expire to September 1 of the second year of a fiscal biennium.
- Reduces the time required for an arbitration panel to commence hearing from 120 to 60 days.
- Prohibits extending impasse procedure time frames.
- Allows employees in Bargaining Units 1, 5, and 7 to strike over health benefits and allows arbitrators to make awards for health benefit contributions for Units 2, 3, 4, 6, 8, 9, 10, 11, and 12.
- Exempts bargaining health benefits trust funds and Hawaii Public Employee Health Benefits Trust Fund from the procurement code.

We are opposed to this bill. First, the department has serious concerns with the concept of having 13 bargaining unit health benefits trust fund boards as presented. Although the Governor would appoint board members, the list of nominees would be selected exclusively by the unions. This would inhibit the Governor's ability to look out for the State's interests. Given the Governor's overall responsibilities for managing State government and State finances, the Governor should have a stronger say in board composition and continue a board composition that balances the needs of both employer and employee interests.

Second, we believe the creation of multiple boards and funds 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 is fairest and results in a more harmonious workplace.

Third, the impasse schedule would move the impasse date to prior to the completion of the Governor's budget and require arbitration hearings to begin before the legislative session. This would make it difficult for the employer to develop realistic final positions and properly prepare for ability to pay testimony for arbitration.

Fourth, we 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.

Fifth, we oppose removing the provision that plans be affordable.

We are not opposed to exempting the Hawaii Employer-Union Health Benefits Trust Fund from Chapter 103D, Hawaii Revised Statutes, and making health benefits contributions subject to right to strike and arbitration provisions.

We defer to the Department of the Attorney General regarding provisions relating to fiduciary duties. We defer to the Department of Human Resources Development regarding provisions relating to Chapter 76.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Sixth Legislature
House of Representatives
Committee on Labor & Public Employment

Testimony by
Hawaii Government Employees Association
January 28, 2011

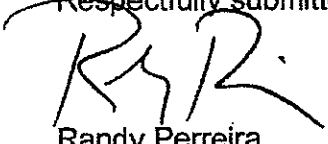
H.B. 167 – RELATING TO THE HAWAII
EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO conceptually supports the changes to the Employer-Union Health Benefits Trust Fund (EUTF) as proposed in H.B. 167.

We support the concepts of establishing separate bargaining unit trust funds and amending the impasse procedures to allow some bargaining units the right to strike, and other units to proceed to arbitration over contributions for health benefits.

In order to increase effectiveness and decrease costs, additional fundamental changes must be made to the EUTF. We strongly support the concepts provided in H.B. 1168, which would change the composition of the EUTF Board, place fiduciary responsibilities on the EUTF Trustees, and appoint legal counsel and plan consultants, and H.B. 1174, which would amend Chapter 89-9 to make both the benefits and contributions of health plans negotiable. Together, these bills will result in cost savings for both the Employer and the employees.

Respectfully submitted,


Randy Perreira
Executive Director