

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 1848, H.D. 1

February 28, 2012

RELATING TO COLLECTIVE BARGAINING

House Bill No. 1848, H.D. 1, repeals the prohibition of using arbitration to resolve impasses or disputes relating to State and county Hawaii Employer-Union Health Benefits Trust Fund (EUTF) contributions and authorizes arbitration panels to decide on EUTF contributions. This bill allows negotiations on all negotiable items to be reopened if the Legislature fails to fund negotiated or arbitrated cost items for EUTF contributions. The bill also repeals the prohibition on the right to strike over EUTF contributions.

The Department of Budget and Finance believes the best way to maintain control of EUTF costs is to leave the final decision for EUTF contributions in the hands of the Legislature if the parties are unable to reach an agreement. While arbitration panels are tasked to consider the employer's ability to pay and overall economic conditions, panels often fail to grasp the complexities of the State budget.

Recent fiscal conditions have made it increasingly difficult to reach resolution in collective bargaining negotiations. The provision to return all negotiable items to the parties for bargaining if the Legislature fails to fund agreements reached by the parties or arbitration panel decisions on EUTF contributions would seem to only exacerbate this problem.

B&F recognizes that giving arbitration panels the opportunity to award a more comprehensive package on salary and benefits might possibly help bring resolution to this process. Accordingly, if the Legislature desires to allow arbitration panels to consider EUTF contribution amounts, a better approach would be that proposed by the Department of the Attorney General which would allow panels to make awards concerning EUTF contributions, but would still allow the Legislature to reject or modify contribution amounts without impacting the rest of the arbitration panel's decision. The following language could be added:

SECTION __. Section 89-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) All cost items shall be subject to appropriations by the appropriate legislative bodies. The employer shall submit within ten days of the date on which the agreement is ratified by the employees concerned all cost items contained therein to the appropriate legislative bodies, except that if any cost items require appropriation by the state legislature and it is not in session at the time, the cost items shall be submitted for inclusion in the governor's next operating budget within ten days after the date on which the agreement is ratified. The state legislature or the legislative bodies of the counties acting in concert, as the case may be, may approve or reject the cost items submitted to them, as a whole. If the state legislature or the legislative body of any county rejects any of the cost items submitted to them, all cost items submitted shall be returned to the parties for further bargaining[-], provided that cost items relating to the amounts of contributions by the state and counties to the Hawaii employer-union health benefits trust fund may be deemed discrete cost

items apart from other cost items submitted to them as a result of an arbitration award or negotiated agreement. The legislature may approve, reject, or modify the arbitration award or negotiated agreement on the amounts of contributions. A modification or rejection by the legislature shall not invalidate any other provisions in the negotiated agreement or arbitration award. Notwithstanding the binding nature of interest arbitration, the parties may submit their respective recommendations on the appropriate amounts of contributions to the legislature within five days from the issuance of the arbitration award, if it is in session, and if the legislature is not in session the parties shall submit their respective recommendations for such contributions to the legislature during the next session of the legislature. In such event, the final and binding agreement of the parties on the amounts of contributions shall consist of the amounts of contributions established by the legislature.

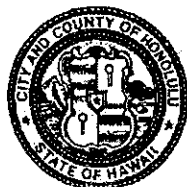
SECTION __. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

~~“(g) The decision of the arbitration panel shall be final and binding upon the parties on all provisions submitted to the arbitration panel. [If the parties have reached agreement with respect to the amounts of contributions by the state and counties to the Hawaii employer union health benefits trust fund by the tenth working day after the arbitration panel issues its decision, the final and binding agreement of the parties on all provisions shall consist of the panel’s decision and the amounts of contributions agreed to by the parties. If the parties have not reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii employer union health~~

~~benefits trust fund by the close of business on the tenth working day after the arbitration panel issues its decision, the parties shall have five days to submit their respective recommendations for such contributions to the legislature, if it is in session, and if the legislature is not in session, the parties shall submit their respective recommendations for such contributions to the legislature during the next session of the legislature. In such event, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions established by the legislature by enactment, after the legislature has considered the recommendations for such contributions by the parties. It is strictly understood that no member of a bargaining unit subject to this subsection shall be allowed to participate in a strike on the issue of the amounts of contributions by the state and counties to the Hawaii employer-union health benefits trust fund.]~~The parties shall take whatever action is necessary to carry out and effectuate the final and binding agreement. The parties may, at any time and by mutual agreement, amend or modify the panel's decision. Agreements reached pursuant to the decision of an arbitration panel and the amounts of contributions by the state and counties to the Hawaii employer-union health benefits trust fund, as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies as provided in section 89-10(b) and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies."

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February 28, 2012

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

Subject: House Bill 1848, House Draft 1
Relating to the Collective Bargaining

Although the Departments of Budget and Fiscal Services and Human Resources believe the intent of House Bill 1848, House Draft 1, is good, we find we must oppose this measure due to our overriding concerns regarding the provision allowing the employer contributions towards health benefits to be decided by an outside party if an agreement cannot be reached on the issue.

House Bill 1848, House Draft 1, provides that if an agreement cannot be reached on the employer contribution for Employer-Union Trust Fund (EUTF) benefits, then for those units that cannot strike, the decision on the amount of the contribution is made by an arbitration panel.

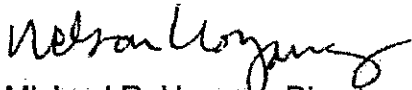
We believe that previously the Legislature wisely determined that decisions on the EUTF employer contributions should not be made by a third party, but should rather be made by the parties that would have to "live" with the outcome and understand the true costs of health care. Deferring the decision to a third party may result not only in widely differing contribution amounts between bargaining units, but also within the same bargaining unit from one contract to the next. Also, due to the high cost of medical and health care, where an award requires the employer to pay for a percentage of the total premium, the true cost of an arbitrator's award will be unknown since insurance rates have steadily increased.

The Honorable Marcus R. Oshiro, Chair
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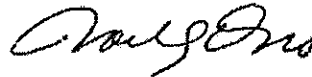
The City recognizes that EUTF costs in general and the unfunded liability in particular are major concerns for all of us, and we appreciate this and other bills that attempt to address this issue. However, based on our concerns, we strongly oppose this bill at this time.

Thank you for the opportunity to testify on House Bill 1848.

Yours truly,



Michael R. Hansen, Director
Department of Budget & Fiscal Services



Noel T. Ono, Director
Department of Human Resources



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Sixth Legislature, State of Hawaii
House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association
February 28, 2012

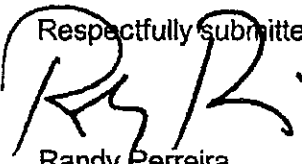
H.B. 1848, H.D. 1 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1848, which clarifies that negotiations relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) shall be subject to the impasse procedure as delineated in Ch. 89, Hawaii Revised Statutes (HRS). However, we have strong concerns about the language contained in Section 1, Lines 16 – 20 of the H.D. 1, which provides that if the Legislature fails to fund the agreed upon contributions to the EUTF, that negotiations on all negotiable items under Ch. 89-9(a) may be reopened. We respectfully request this specific language in the H.D. 1 be deleted.

Ch. 89, HRS lacks a dispute resolution over the contributions to the EUTF. As currently provided in Statute, if the Employer and the Exclusive Representative cannot agree on the contributions, then the pro-rata share shall be determined by the Legislature, while all other negotiable items can proceed to impasse. The amendments contained in H.B. 1848 allow for the dispute over contributions to be inclusively – similarly to any other negotiable item – resolved via the impasse procedure and subsequently by either arbitration or strike, depending on the bargaining unit. However, we respectfully question the intent and impact of language contained in Section 1, Lines 16 – 20 of the H.D. 1. As written, Lines 16 – 20 are permissive, as “all negotiable items... may be reopened (emphasis added) – who will determine if and what specific items are reopened? Can the Legislature’s lack of funding to the EUTF dissolve an Arbitrator’s final and binding decision on both cost- and non-cost items? Will the Employer and the Exclusive Representative then commence the entire process of dispute resolution again? Inclusion of this language raises more questions than answers, and should be removed.

Providing for contributions to the EUTF to be resolved via arbitration or strike is fair and reasonable – it broadens the scope of bargaining and can result in more meaningful negotiations. Passage of this legislation will increase conformity between public-sector and private-sector employee bargaining, as the Exclusive Representatives can fully utilize their dispute resolution mechanisms for all negotiable items.

Thank you for the opportunity to testify in strong support of H.B. 1848, H.D. 1, with the requested deletion.

Respectfully submitted,

Randy Perreira
Executive Director



HAWAII FIRE FIGHTERS ASSOCIATION

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House of Representatives
The Twenty-Sixth Legislature
Regular Session of 2012
Committee on Finance
February 28, 2012

Testimony by
Hawaii Fire Fighters Association

H.B. No. 1848, H.D. 1 RELATING TO COLLECTIVE BARGAINING

My name is Robert H. Lee and I am the President of the Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO. HFFA represents the 2,800 active and retired professional fire fighters throughout the State. HFFA supports H.B. No. 1848, H.D. 1 with some comments.

HFFA believes that H.B. No. 1848, as introduced, encourages meaningful discussion and possible settlement during the negotiation/arbitration process by allowing for the parties to thoroughly review the cost items for salaries and other benefits. House Draft 1 poses a concern as it could possibly render an arbitration decision moot if the legislature fails to fund the payment of the costs for a health benefits plan and group life insurance and could possibly send the entire decision back to negotiations/arbitration with no assurances that a resolution would be reached.

We respectfully request that the provision which could negate the entire arbitration decision if the legislature fails to fund the costs be deleted from the House Draft. Thank you for the opportunity to testify.