

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
ON  
SENATE BILL NO. 2214, S.D. 2

March 13, 2012

RELATING TO COLLECTIVE BARGAINING

Senate Bill No. 2214, S.D. 2, 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. The bill also repeals the prohibition on the right to strike over EUTF contributions.

The Department of Budget and Finance (B&F) 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. 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 incorporates the approach recommended by the Department of the Attorney General:

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."



House Committee on Labor & Public Employment  
Tuesday, March 13, 2012  
9:30 a.m.

**SB 2214, SD2, Relating to Collective Bargaining.**

Dear Chairman Rhoads and Committee Members:

On behalf of the University of Hawaii Professional Assembly (UHPA), our union strongly supports the proposed changes set forth in this bill that eliminate the exclusion of the public employers' contributions to the Hawaii Employer-Union Health Benefits Trust Fund from the statutory impasse procedures set forth in HRS Chapter 89.

Although it may be counter intuitive, the broader the scope of bargaining, the more likely it will be for the parties to find a joint resolution to issues which encompass employment agreements. This is particularly true with respect to issues of compensation that include both salary and fringe benefits. When new people are hired as public employees in the State of Hawaii, they are astounded to discover that health insurance coverage is not negotiable, and that we cannot go to impasse if there is not agreement over the portion of the health insurance premiums to be paid by the employer. Since the payment of health insurance premiums is a form of compensation that has significant federal tax advantages to both the employee and the Public Employers, since it is directly related to the amount of net wages an employee would receive, then why is there any exclusion to bargaining process? In fact, it was not until the 1980's that public sector unions were able to change the scope of negotiations to include bargaining over just the employer's contribution to the then Public Employees' Health Fund for each bargaining unit. The contribution was then subject to the impasse procedures. Even this limited right to bargain has been eroded over the course of time with the advent of the Hawaii Employer-Union Health Benefits Trust Fund under the auspices of "civil service reform." The new "reform" excluded the topic from the impasse procedures, whether it is interest arbitration or the right to strike. Obviously, the costs of health insurance premiums are part of any employee's total compensation, yet the law does not allow the exclusive representative, i.e., UHPA, to pursue the issue through the impasse procedures.

For collective bargaining to properly function, the parties must broad set of topics to discuss that directly relate to the conditions of employment. This allows the construction of comprehensive employment contracts that include alternatives for creative settlements. The proposed change in

**UNIVERSITY OF HAWAII  
PROFESSIONAL ASSEMBLY**

1017 Palm Drive · Honolulu, Hawaii 96814-1928  
Telephone: (808) 593-2157 · Facsimile: (808) 593-2160  
Web Page: <http://www.uhpa.org>





SB 2214, SD2 will not injure either the public employers of the State of Hawaii nor its citizens. Rather it will be a more honest approach to collective bargaining as set forth in our State Constitution. Impasse resolution puts the burden on both the employer and the union to come to a resolution that balances the total compensation package to be paid to public employees.

Any references to HRS Chapter 87A-33, etc., in SB 2214, SD1 to retired employees should be eliminated since their benefits are not subject to bargaining under Chapter 89.

This is a small step for the Legislature to take, but one that is critical to the effectiveness and functioning of the constitutional commitment of the State to joint decision making. We encourage the Committee to incorporate an effective date of July 1, 2012 or upon approval of the legislation.

Respectively submitted,

A handwritten signature in cursive script, appearing to read "J.N. Musto".

J.N. Musto  
Executive Director



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Sixth Legislature, State of Hawaii  
House of Representatives  
Committee on Labor and Public Employment

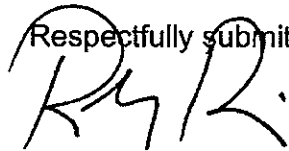
Testimony by  
Hawaii Government Employees Association  
March 13, 2012

**S.B. 2214, S.D. 2 – RELATING TO**  
**COLLECTIVE BARGAINING**

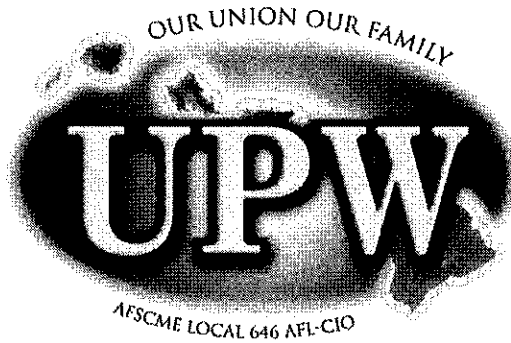
The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 2214, S.D. 2 which clarifies that negotiations relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) shall be subject to the impasse procedure as delineated in Ch. 89, Hawaii Revised Statutes (HRS) and makes other technical, conforming amendments. We respectfully request the Committee amend the current defective date of July 1, 2050 to July 1, 2012 or upon approval.

Ch. 89, HRS lacks a dispute resolution over the contributions to the EUTF. As currently written, 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 S.B. 2214, S.D. 2 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. Adoption of this language 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 this legislation, with the requested amendment.

Respectfully submitted,  
  
Randy Perreira  
Executive Director





THE HAWAII STATE HOUSE OF REPRESENTATIVES  
The Twenty-Sixth Legislature  
Regular Session of 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
The Honorable Rep. Karl Rhoads, Chair  
The Honorable Rep. Kyle T. Yamashita, Vice Chair

DATE OF HEARING: Tuesday, March 13, 2012  
TIME OF HEARING: 9:30 a.m.  
PLACE OF HEARING: Conference Room 309

**TESTIMONY ON SB 2214 SD2 RELATING TO COLLECTIVE BARGAINING**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

SB 2214 SD2 clarifies provisions that negotiations relating to contributions to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) shall be to agree upon amounts that the State and counties shall contribute toward the payment of costs for a health benefits plan and group life insurance benefits for active public employees. It also clarifies that a decision of an arbitration panel shall be final. UPW supports this measure.

Currently, if the employer and exclusive representative are unable to reach an agreement on contributions to the EUTF, then it is left to the Legislature to decide the contributions, while other negotiable items can move forward. By amending Chapter 89 with this language, contributions to the EUTF will be able to similar to other negotiable items and can be resolved by arbitration or strike.

Thank you for the opportunity to testify on this measure.