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PETER B. CARLISLE
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MICHAEL R. HANSEN
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January 26, 2012

The Honorable Clayton Hee, Chair
and Members of the Committee on Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill 2214
Relating to Collective Bargaining

Although the Departments of Budget and Fiscal Services and Human Resources believe the intent of Senate Bill 2214 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.

We understand the bill will have two major effects. The first is to provide 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 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.

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We do understand; however, that it is desirable to remove the provision that requires the Legislature to make the decision on the contribution if the parties are unable to come to an agreement. We wonder whether a suitable alternative to submitting this issue to arbitration may be for the Legislature to provide a default contribution—perhaps a set dollar amount—that will be used if an agreement is not reached by March of the year in which a collective bargaining agreement is to expire.

The second major effect is that the bill appears to provide for negotiations over the EUTF contribution for retirees also. (Although we noted that the bill did not make changes to the sections in Chapter 87A that currently establish these contribution amounts.) We believe this would have the very beneficial result of keeping the cost of providing retiree health benefits in the minds of all parties involved. However, we do have some questions regarding this provision and are unable to formulate a position on it at this time.

Our questions center on whether the intent of the bill is to leave the employer contribution towards retiree health benefits strictly to negotiations between the unions and the employer for all current and future retirees. If this is the case, our concerns regarding having this cost item determined by a third party are magnified as the arbitrator or arbitration panel could decide to provide the same contribution for all retirees irrespective of when they retired or their years of service. We acknowledge this could result in more or less cost to us, but also note our concerns about the potential for legal challenges from retirees if it is perceived that what was agreed to or determined via arbitration is less favorable than what was previously provided in statute.

The City recognizes that EUTF costs in general and the unfunded liability in particular, are a major concern 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 Senate Bill 2214.

Yours truly,



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



Noel T. Ono, Director
Department of Human Resources

THE HAWAII STATE SENATE
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON JUDICIARY & LABOR
The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

DATE OF HEARING: Thursday, January 26, 2012
TIME OF HEARING: 2:30 p.m.
PLACE OF HEARING: Conference Room 229

**TESTIMONY ON SB 2214 REALATING 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 01 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.

This proposed legislation provides that bargaining units subject to mandatory interest arbitration will be able to resolve impasse or disputes in collective bargaining negotiations relating to amounts the state and counties contribute to Hawaii employer union health benefits fund through arbitration the decision of the arbitration panel would be final and binding.

For other bargaining units, impasse in collective bargaining negotiations over a renewed agreement, which may include disputes relating to employers' contribution amounts to EUTF permits the parties to resort to other remedies that are not prohibited by any agreement between them, other provision of Chapter 89, or any other law.

Accordingly, the UPW is in support of SB 2214.

Thank you for opportunity to testify on this measure.