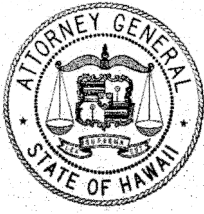


SB2753



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2753, RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, February 8, 2012 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Sarah R. Hiramami, Deputy Attorney General

Chair Hee and Members of the Committee:

The Department of the Attorney General supports this bill with one recommended modification.

This bill would add a new section to chapter 87A, Hawaii Revised Statutes (HRS), to authorize the Hawaii Employer-Union Health Benefits Trust Fund ("EUTF") to create a separate trust fund for the purpose of receiving employer contributions that will pre-fund health and other post employment benefits (OPEB) for retirees and their beneficiaries. An audit of the EUTF concluded that the EUTF currently does not have a trust fund that meets the requirements of the Government Accounting Standards Board (GASB) regarding OPEB trusts.

The State has taken the position that there is no requirement or obligation to pre-fund retiree health and other postemployment benefits (OPEB), and that GASB does not require government employers to fund OPEB plans.

In 2006, the Legislature amended chapter 87A, HRS, to clarify that the EUTF is administered as a trust or equivalent arrangement as that term is used in the GASB statement numbers 43 and 45. See Act 57, 2006 Haw. Sess. Laws at 86-88. Act 57 expressly provided, however, that it was "not meant to bind or require the State or counties to make any particular level of contributions to the Hawaii employer-union health benefits trust fund now or in the future, but only to ensure that contributions actually made are irrevocable."

This bill should be revised to add a similar statement that the public employers are not required to make any particular level of contributions to pre-fund OPEB benefits, notwithstanding the bill's

purpose to authorize the EUTF to establish a separate trust fund for the purpose of receiving OPEB contributions. We recommend that the bill be revised to add a section at the beginning of the bill containing the following paragraph:

This Act is not meant to bind or require the State or counties to make any particular level of contributions to the Hawaii employer-union health benefits trust fund now or in the future, but only to authorize the Hawaii employer-union health benefits trust fund to create a separate trust fund for the purpose of receiving such contributions that meets the requirements of the Government Accounting Standards Board regarding health and other post-employment benefits trusts.

Accordingly, we respectfully request that the Committee pass this bill with the recommended amendment.

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
SENATE BILL NO. 2753**

February 8, 2012

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

Senate Bill No. 2753 authorizes the board of the Employer-Union Health Benefits Trust Fund (EUTF) to create a trust fund for the purpose of receiving employer contributions that will prefund post-employment health and other benefit costs for retiree and their beneficiaries.

The Department of Budget and Finance strongly supports this Administration bill which will enable the establishment of a separate irrevocable trust for the other post-Employment benefits (OPEB).

OPEB benefits include various non-pension benefits, such as health care, which are provided to retirees. There is no obligation to pre-fund OPEB benefits; however, pre-funding OPEB benefits through a trust that meets the Government Accounting Standards Board (GASB) requirements allows a public employer to use a higher discount rate in calculating its unfunded liability which reduces the OPEB liability reported in its financial statements.

GASB requirements for a qualified OPEB trust are: 1) it must have the specific criteria of irrevocability of contributions; 2) dedication of plan assets to paying benefits in accordance with the plan; and 3) legal protection of the plan assets from creditors. Several counties have made pre-funded contributions toward their OPEB liabilities but

have not been able to receive the full benefit for the contributions because there is no trust established that meets the GASB requirements.

The Administration believes that this measure is necessary to ensure that pre-funded contributions which are made by the public employers are used for its intended purpose and also to ensure that public employers who make these contributions receive the proper credit for the OPEB contributions on their financial statements.

DEPARTMENT OF BUDGET & FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET 2ND FLOOR • HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



MICHAEL R. HANSEN
DIRECTOR

February 8, 2011

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 2753
Relating to the Hawaii Employer-Union Health Benefits Trust Fund

The City and County of Honolulu strongly supports Senate Bill 2753 which will authorize the Employer-Union Trust Fund (EUTF) Board to create a separate trust fund to receive employer contributions to prefund other post-employment benefits (OPEB).

We understand that the creation of this trust fund will ensure that the City's OPEB contributions will be used exclusively for providing health and other non-pension benefits to City retirees. In addition, the City would be able to receive credit for our OPEB contributions because the trust would meet Government Accounting Standards Board (GASB) requirements for OPEB plans.

The City has already contributed \$40 million in FY 2009, and plans to add another \$37.7 million this fiscal year to EUTF for the City's OPEB obligations. We believe it is essential to secure these funds for the purpose in which they were intended and ask for your favorable consideration of Senate Bill 2491.

Thank you for the opportunity to testify on this matter.

Yours truly,

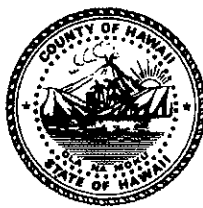
Handwritten signature of Michael R. Hansen in black ink.

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

Handwritten signature of Noel T. Ono in black ink.

Noel T. Ono, Director
Department of Human Resources

William P. Kenoi
Mayor



Nancy E. Crawford
Director

Deanna S. Sako
Deputy Director

County of Hawai'i

Finance Department

25 Aupuni Street, Suite 2103 • Hilo, Hawaii 96720
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February 6, 2012

The Honorable Clayton Hee, Chair
and Members of the Senate Committee on Judiciary and Labor
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Testimony in Support of Senate Bill No. 2753
Hearing Wednesday, February 8, 2012, at 9:30 a.m., Conference Room 016

Honorable Chair Hee and Members of the Committees:

Hawai'i County supports S.B. 2753, which clarifies language regarding the Hawaii Employer-Union Health Benefits Trust Fund (EUTF). The language makes the EUTF compliant with the requirements of Governmental Accounting Standards Board (GASB) Statement No. 43, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*. Previously, it was our understanding that the EUTF was in compliance with GASB Statement No. 43, so this clarification will correct any misconceptions that may currently exist. Our decision to prefund our other post employment benefits obligation was based on the funds status.

Thank you for your attention to our concerns.

Sincerely,

Nancy Crawford
Director of Finance