

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

Friday, February 1, 2013
8:00 a.m.

HB 1176
RELATING TO WORKERS' COMPENSATION

By Marleen Silva
Director, Workers' Compensation
Hawaiian Electric Company, Inc.

Chair Nakashima, Vice Chair Hashem, and Members of the Committee:

Hawaiian Electric Co. Inc., its subsidiaries, Maui Electric Company, LTD., and Hawaii Electric Light Company, Inc. **respectfully oppose H.B. 1176.** Our companies represent over 2,000 employees throughout the State.

This bill proposes to amend Section 386-21, HRS requiring negotiation for a period of thirty-one calendar days following the date of notice of billing disputes between the employer or medical services provider to the Director of Labor and Industrial Relations. It allows the parties to request the Director render an administrative decision without a hearing in the event the parties fail to reach agreement within the negotiation period. It also establishes that the decision rendered by the director to be final and nonappealable. At the discretion of the Director, either party may be also be assessed a service fee of up to \$500 payable to the State of Hawaii general fund for failing to negotiate in good faith.

We appreciate the intent to eliminate unnecessary hearings when possible and to encourage the use of collaboration to resolve disputes. However, we cannot support a measure that interferes with a party's right to due process by allowing the DLIR to proceed to make a decision without a hearing, when one has been requested by a party.

Disputes of medical services and their associated fees arise when it appears they may be excessive, unreasonable, unnecessary, or unrelated to a work injury. Section 386-86, HRS requires that the DLIR Director render a decision awarding or denying compensation, stating the findings of fact and conclusions of law after a hearing is held. For many years the hearing process has been an effective tool for parties to resolve these types of disputes, providing the opportunity for each party to communicate the extent of their concerns along with factual evidence. When evidence is timely received by the employer to make a reasonable decision on the issues in dispute, hearings have been cancelled upon mutual consent of both parties.

For these reasons, we respectfully oppose H.B. 1176 and request that this measure be held.

Thank you for this opportunity to submit testimony.

LATE TESTIMONY
LATE TESTIMONY



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

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Hawaii Government Employees Association
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H.B. 1177 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 1177, which makes fundamental changes to the structure and operating principles of the Hawaii Employer-Union Health Benefits Trust Fund (EUTF). There is widespread agreement that the EUTF is not operating as originally intended and has become a serious concern for both employees and employers.

The current system needs fundamental change. H.B. 1177, in conjunction with H.B. 1173, which would permit the negotiation of health care contributions, contains several significant reforms that will eliminate many of the problems that currently make the EUTF ineffective and expensive.

Benefits are an integral part of employee compensation and should be negotiated between unions and employers, as is the practice in the private sector. Other reform efforts can be achieved through negotiations and must include effective mechanisms for controlling costs, encouraging preventive care, implementing wellness programs, requiring information on provider performance and enhancing efficiency. H.B. 1177 contains the following reforms to the EUTF:

1. It changes the method of selecting benefit plan carriers, third party administrators, consultants and actuaries by exempting the process from Chapter 103-D, HRS. This will provide the necessary flexibility to respond to problems faster.
2. Board members must act as fiduciaries of the trust. As fiduciaries, board members are required to make decisions based solely on the interest of the participants and beneficiaries. Board members who willfully violate their fiduciary responsibilities may be liable for any loss suffered by the plan, increasing the accountability of the trustees.
3. The composition of the board and the method of selecting them are also changed. Six trustees representing employee-beneficiaries will be appointed by the various exclusive representatives instead of the Governor. The six trustees representing the employer will be better distributed among the



different jurisdictions, with one trustee appointed by the Governor representing retirees. All trustees serve at the pleasure of their appointing authority.

4. It allows individual unions and employers to establish a sub-trust and sub-board of trustees to administer that bargaining unit's contributions and benefits if they negotiate a specific contribution to apply only to that unit.
5. The board can appoint or retain legal counsel who is independent of the Attorney General.
6. Health Plans shall be provided based on the collectively bargained contributions from both the employers and employees, not "at a cost affordable to both the public employers and employees."
7. For administrative purposes, the fund controlled by the board is placed under the Department of Human Resources Development, not the Department of Budget and Finance.

We appreciate the opportunity to testify in support of H.B. 1177, as the measure will make much needed changes to the EUTF.

Respectfully submitted,


Randy Perreira
Executive Director