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**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL 1177**

February 25, 2013

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

House Bill 1177 makes the following amendments to Chapter 87A, Hawaii Revised Statutes, which governs the Hawaii Employer-Union Trust Fund (EUTF):

- Allows the EUTF to procure carriers, third-party administrators, consultants, actuaries and auditors exempt from the procurement code;
- Adds two new sections on fiduciary duties and prohibited transactions and liability for breach of fiduciary duties;
- Allows the EUTF to employ or retain an attorney independent of the Attorney General;
- Increases the membership of the EUTF Board of Trustees from 10 to 12 and changes how trustees are appointed, their terms of office, quorum and voting requirements;
- Provides for sub-boards to administer exclusive bargaining unit contributions and benefits;
- Requires active employee benefit plans to be based on collective bargained contributions and retiree benefits to be based on legislative appropriations; and
- Transfers the EUTF from the Department of Budget and Finance (Department) to the Department of Human Resources Development.

We are opposed to this bill. First, the Department has serious concerns with the modifications to the composition of the EUTF Board. Placing the retiree beneficiary board member as part of the employer group for voting is inappropriate as the retiree beneficiary member represents retiree interests and as such should be a part of the employee group (as is currently the case), which represents beneficiaries, for voting. Specifying that the five other employer board members represent five different jurisdictions severely dilutes the Governor's ability to look out for the State's interest and results in each employer trustee representing a disproportionate share of the employer group. While we are not specifically opposed to adding county representation to the board, allowing the Mayor of the City and County of Honolulu to appoint a board member and the mayors from the County of Hawaii, Maui and Kauai to appoint another employer board member is not reflective of the EUTF's membership. Currently, State employees make up approximately 76% of the EUTF participants.

Given the Governor's overall responsibilities for managing State government and State finances, the Governor should appoint the majority of employer board members without regard to specific employer jurisdictions. However, if board members are to be added, we strongly suggest a neutral member. A neutral eleventh member would facilitate working through the board's deadlocks and balance the needs of both employer and employee interests.

Second, we strongly believe that the Attorney General is better suited to ensure that long-term State interests are protected rather than an outside attorney. The staff of the Department of the Attorney General can bring a broad background of familiarity with the EUTF and other State statutes at a lower cost

than an outside legal firm. The cost of an outside attorney will have to be borne by the public employers and the plan's participants.

Third, requiring benefit plans to be based on collective bargained amounts rather than determining collectively bargained amounts based on plan designs established by the EUTF is problematic. Such an approach could result in material fluctuations in plan benefits from year to year and may make it difficult to design benefit plans that meet the needs of beneficiaries. This change may also cause administrative difficulties such as completing plan design and negotiating with vendors in sufficient time for open enrollment periods, especially given the history of completing negotiations very late in plan delivery cycle. Similarly, for retirees, requiring that the plans be based on approved appropriations may also cause difficulties in completing plan design and bidding/negotiating with vendors in sufficient time for open enrollment periods.

Fourth, given the fiscal complexities involved and the size of the EUTF's expenditures in relation to the total State budget, transferring the EUTF to the Department of Human Resources Development would not be in the best interest of the State.

We are not opposed to exempting the EUTF from Chapter 103D, Hawaii Revised Statutes. We defer to the Department of the Attorney General regarding provisions relating to fiduciary duties.