LATE

COMMENTS OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013

ON THE FOLLOWING MEASURE:
S.B. NO. 867, S.D. 1 RELATING TO THE HAWAIʻI EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, February 21, 2013 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 211

WRITTEN COMMENTS ONLY:
(For more information, contact Kyle K. Chang, Deputy Attorney General, tel. no. 586-0622)

Chair Ige and Members of the Committee:

The Department of the Attorney General opposes this bill as currently drafted.

S.B. No. 867, S.D. 1, deletes the specific amounts for the base monthly contribution established under section 87A-33 of the Hawaii Revised Statutes (HRS). It also deletes the provisions for annually adjusting the base monthly contribution set forth in section 87A-33(d) and (e), HRS. Finally, it deletes the references to section 87A-33(b), HRS, in sections 87A-34, 87A-35, and 87A-36, HRS.

This bill does not provide for the State and counties to pay any monthly contributions to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) for the employee-beneficiaries and dependent-beneficiaries described in section 87A-33(a), HRS. The bill merely says that the monthly contributions by the State and county "shall not exceed the actual costs of the health benefits plan or plans" or, if both husband and wife are employee-beneficiaries, the total contribution by the State or county "shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate." See page 3, lines 3-8. This wording does not require the State or counties to contribute any particular amount or amounts; it just states a limitation on the amount that the State and counties contribute.

This bill does not clearly define the amount of monthly contributions that the State and counties are required to pay to the EUTF for the employee-beneficiaries and dependent-beneficiaries described in section 87A-33(a), HRS. Based on the current wording of this bill, we cannot discern whether it intends to require the State and counties to pay the total premium costs for the health benefits plan or plans that the eligible employee-beneficiaries and dependent-beneficiaries enroll in, or some other amount or amounts. In this respect, the Committee should note that a retired employee's total premium costs will differ greatly depending on whether he or she is enrolled in: (a) self-only, two-party, or family plans; (b) medicare supplemental or non-medicare plans; (c) the EUTF PPO or HMO medical plans; and (d) the EUTF prescription drug, dental, and/or vision plans, which are optional.

The bill does not clearly define the base monthly contribution that is referred to in sections 87A-34, 87A-35, and 87A-36, HRS. As currently written, section 87A-33, HRS, defines the base monthly contribution in specific dollar amounts that have been and continue to be annually adjusted by the percentage changes in Medicare Part B rates. This bill does not define any base monthly contribution nor provide a method for its calculation. Even if one were to assume that the base monthly contribution was the total monthly premium costs for EUTF retiree health plans, as discussed above, that cost will vary from retiree to retiree depending on which plans he or she chooses. For purposes of sections 87A-34, 87A-35 and 87A-36, HRS, the State and counties need to know a specific discernible amount or amounts in order to know what they should pay to the EUTF for retired employees covered by those sections, i.e., fifty per cent of the base monthly contribution. <u>See</u> page 6, line 18; page 7, lines 11-12 and 16-17; page 8, lines 8-9 and 13-15.

Depending on whether the bill continues to reference a "base monthly contribution" and how it defines that term, section 87A-33(c), HRS, may have to be revised. <u>See</u> page 6, lines 7-12. Currently, the EUTF uses a three-tier system, self-only, two-party, and family for retiree plans. Any change to this subsection should account for the possibility that the EUTF may change the tiering structure of its retiree plans in the future.

Finally, the Committee should note that taking away the limits or caps on State and county contributions afforded by the current section 87A-33, HRS, may increase the State's and counties' actuarially accrued liabilities for other post-employment benefits (OPEB). We understand that the current figures calculated for such OPEB liabilities were under the assumption that the limits or caps in sections 87A-33, 87A-34, 87A-35, and 87A-36, HRS, would remain. At least one pending lawsuit seeks to increase the health benefits provided by the EUTF to retirees. If plaintiffs succeed in this respect, the deletion of limits or caps in this bill could result in a further increase in the State’s and counties’ current and long-term liabilities for retiree health benefits costs.

LATE

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 867, S.D. 1

February 21, 2013

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

Senate Bill No. 867, S.D. 1, repeals provisions relating to the base monthly contributions for health benefit plans paid by the State and counties for retired employees and the requirement that the base composite monthly contribution shall be adjusted annually and the method of calculation.

The Department of Budget and Finance strongly opposes this measure. First, the base monthly contribution formula provides an upper threshold parameter for the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees in determining health benefits plan designs and benefits for State/county retirees. Cost is a significant consideration in the design of a health benefit plan and removing the upper threshold parameter could lead to development of health benefit plans for retirees that are unsustainable. It should be noted that collective bargaining of public employer EUTF contributions serves as the comparable upper threshold parameter for active State/county employees.

Second, the base monthly contribution formula for State/county retirees is one of the factors used by the actuary determining the unfunded other post-employment benefit (OPEB) liability of the EUTF. Repealing the base monthly contribution formula could result in an increase of the EUTF unfunded OPEB liability, which is currently $16.3 billion for all State/county jurisdictions -- the State's portion of the unfunded OPEB liability is $13.6 billion.

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Twenty-Seventh Legislature, State of Hawaii
The Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
February 21, 2013

S.B. 867, SD1 Relating to Employer-Union Health Benefits Trust Fund

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports passage of S.B. 867, SD1 which repeals specific monetary amount of employer contributions to the EUTF for each enrolled employee beneficiary.

The Hawaii Supreme Court held that "health benefits for retired state and county employees constitutes 'accrued benefits' pursuant to article XVI Section 2 of the Hawaii Constitution. This means that the Hawaii Constitution prohibits the Legislature from passing any bill that diminishes or impairs retirees' health or pension benefits already earned .

Public employees currently pay a share of the cost of health premiums for health benefits. In retirement, retired state and county employees receive a base monthly contribution health premium benefit depending on their hire date. In other words, there is a "cap" on the amount the employers will pay for medical, prescription drug, dental and vision premiums. The cap has not been an issue since its inception on July 1, 2003 through June 30, 2012. However on July 1, 2012, one carrier exceeded the base monthly contribution premium for non-Medicare retirees. The following is the impact to non-Medicare retirees had the carrier not lowered their premium:

	Health Premium	Cap Rate	Difference
Single	$693.80	$668.12	$25.68
2 party	$1,353.52	$1,346.68	$6.84
Family	$1,990.16	$1,971.04	$19.12

The last column represents the out-of-pocket cost to the non-Medicare retiree which diminishes the "accrued" retirees' health benefit, in direct conflict of article XVI, Section 2 of the Hawaii Constitution. Let us not forget the promise, the social and moral obligation to State and County employees of free health insurance benefits upon retirement.

HGEA strongly supports S.B. 867, SD1 and urges your committee to pass this measure. Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
Executive Director

888 MILILANI STREET, SUITE 601 HONOLULU, HAWAII 96813-2991