

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 885, S.D. 2, H.D. 1

March 27, 2013

RELATING TO COLLECTIVE BARGAINING

Senate Bill No. 885, S.D. 2, H.D. 1, repeals the prohibition of using arbitration to resolve impasses or disputes relating to State and county Hawaii Employer-Union Health Benefits Trust Fund (EUTF) contributions and authorizes arbitration panels to decide on EUTF contributions. The bill also repeals the prohibition on the right to strike over EUTF contributions.

The Department of Budget and Finance (B&F) strongly opposes this bill. B&F believes the best way to maintain control of EUTF costs is to leave the final decision for EUTF contributions in the hands of the Legislature if the parties are unable to reach an agreement. While arbitration panels are tasked to consider the employer's ability to pay and overall economic conditions, panels often fail to grasp the complexities of the State budget.

Recent fiscal conditions have made it difficult to reach resolution in collective bargaining negotiations. However, altering what is done in these situations to allow binding arbitration would take this critical decision out of the hands of elected leaders and put it in the hands of unelected and unaccountable arbitrators. While the Legislature would still have the authority to reject an arbitration award, it appears all cost items would be rejected, not just EUTF contributions. The end result of this bill could result in giving the Legislature a choice of fully conceding control of this significant portion of the budget to arbitration panels or risk unending collective bargaining negotiations.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 10th Floor
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KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR
NOEL T. ONO
ASSISTANT DIRECTOR

March 27, 2013

The Honorable Sylvia Luke, Chair
and Members of the Committee on Finance
State House
Hawaii State Capitol
Honolulu, Hawaii 96813

Dear Chair Luke and Members of the Committee:

Subject: Testimony on S.B. 885, S.D. 2, H.D. 1 Relating to Collective Bargaining

The Department of Human Resources of the City & County of Honolulu, submits the following comments on S.B. 885, S.D. 2, H.D. 1. If passed, the legislature would relinquish its decision making authority regarding the amount of employer contributions to the Employer-Union Health Benefit Trust Fund (EUTF) in the event the public employers and various public unions are not able to reach an agreement. Moreover, according to S.B. 885, S.D. 2, H.D. 1 such decision could be made by a third party arbitrator, who may or may not understand the public employers' ability to pay for such benefits. In addition, having different arbitrators decide the matter could result in inconsistent EUTF contribution amounts between the various bargaining units. Finally, the measure would likely have an unforeseen negative financial impact to public employees as health care and administrative costs will likely increase.

We thank you for giving us the opportunity to testify on this matter.

Sincerely,

A handwritten signature in black ink that reads "Carolee C. Kubo".

Carolee C. Kubo
Director



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
March 27, 2013 at 4:00pm

By
Dr. Linda K. Johnsrud
Executive Vice President for Academic Affairs/Provost
University of Hawai'i

SB 885 SD2 HD1 – RELATING TO COLLECTIVE BARGAINING

Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the House Finance Committee, I am submitting written testimony on behalf of the University of Hawai'i regarding Senate Bill 885 SD2 HD1 – Relating to Collective Bargaining which proposes to amend HRS, Chapter 89, by repealing language that prohibits parties from using arbitration to resolve impasses or disputes relating to the State and counties' contributions to the employer-union health benefits trust fund; repeals the procedures parties are required to follow after an arbitration panel issues a decision and the understanding that members of bargaining units are prohibited from striking on the issue of state and county contributions to the employer-union health benefits trust fund; and making housekeeping amendments regarding the scope of negotiations.

The University of Hawai'i has reservations regarding the impact, intended or otherwise, of the proposed legislation if enacted.

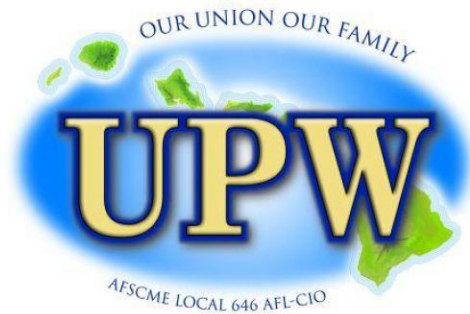
The University of Hawai'i has covered employees in Units 1, 2, 3, 4, 7, 8, 9 and 10. Units 2, 3, 4, 8, 9 and 10 are all subject to interest arbitration while Units 1 and 7 have the right to strike to resolve disputes or impasses over bargaining over successor contracts. Units 7 and 8 consist of employees who only work for the University of Hawai'i system, and thus, we are considered their only employer.

Currently, the Legislature has the sole authority to decide upon the amount of employer contributions made to the EUTF if the parties are unable to resolve this issue during interest arbitration. This allows the Legislature to consider and take into account the amount of employer EUTF contributions that are being made or are going to be made to other bargaining units, as well as, its priority in the overall budget. The Legislature's decision is final and binding and these interest arbitration units cannot participate in a strike over the issue of employer EUTF contributions. The proposed legislation, if enacted, will allow an arbitration panel to decide on these amounts during the interest arbitration proceedings as a cost item subject to Legislative funding. With six bargaining units within the University subject to interest arbitration, it could be a possibility that all six will be subject to different arbitration panels. That outcome could lead to having all six arbitration decisions on employer EUTF contributions differ or vary

from one bargaining unit to the next. This would be an administrative nightmare that may also require an increase in administration costs due to its complexity and management. EUTF employer contributions have become a very sensitive issue during negotiations in recent years which have been managed by the parties agreeing to favored nation clauses. In essence, these favored nation clauses have been used to support the concept of equity which is an important factor in maintaining a healthy and productive workforce. As an employer, we are concerned that such possibilities could become reality since an arbitration panel does not have to consider the issue of equity as a primary factor in its decision.

There is also a concern whether further amendments to the chapter would be required to enact this law. EUTF contributions subject to interest arbitration will now be a cost item subject to Legislative funding. For bargaining units not subject to interest arbitration, the Legislature currently has the authority to either fund or reject cost items as a whole that are submitted to the Legislature for consideration. If the Legislature decides to reject the cost items, the cost items as a whole are returned to the parties for further bargaining. However, this caveat only applies to bargaining units not subject to interest arbitration. EUTF contributions will now be considered as part of the cost items for interest arbitration units. There is no statutory mechanism under HRS, §89-11, for interest arbitration units to allow the Legislature to reject cost items with the ability to return cost items as a whole to the parties for further bargaining. The law only provides that the parties may by mutual agreement, modify or amend the arbitration decision. This needs to be taken into consideration if the Legislature intends to relinquish its authority over this matter.

Thank you for the opportunity to testify on this bill.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Seventh Legislature
Regular Session of 2013

COMMITTEE ON FINANCE

The Honorable Rep. Sylvia Luke, Chair
The Honorable Rep. Scott Nishimoto, Vice Chair
The Honorable Rep. Aaron Ling Johanson, Vice Chair

DATE OF HEARING: Wednesday, March 27, 2013
TIME OF HEARING: 4 p.m.
PLACE OF HEARING: Conference Room 308

TESTIMONY ON SB885 SD2 HD1 RELATING 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 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 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.

The UPW supports SB885 SD2 HD1 that repeals language that prohibits parties from using arbitration to resolve impasses or disputes relating to the State and counties' contributions to the employer-union health benefits trust fund and repeals the procedures parties are required to follow after an arbitration panel issues a decision and the understanding that members of bargaining units are prohibited from striking on the issue of state and county contributions to the employer-union health benefits trust fund. This measure provides an instrument to resolve disputes over the employee and employer share of contributions.

Thank you for the opportunity to testify.