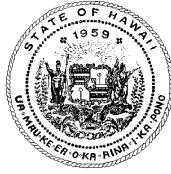


DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
CHIEF NEGOTIATOR

**STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR**
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

February 1, 2016

TESTIMONY TO THE
SENATE COMMITTEES ON JUDICIARY AND LABOR
For Hearing on Wednesday, February 3, 2016
9:30 a.m., Conference Room 016

By

JAMES K. NISHIMOTO
CHIEF NEGOTIATOR, OFFICE OF COLLECTIVE BARGAINING

**Senate Bill No. 2435
Relating to Collective Bargaining**

CHAIRPERSON KEITH-AGARAN, VICE-CHAIR SHIMABUKURO AND MEMBERS OF
THE SENATE COMMITTEE ON JUDICIARY AND LABOR:

S.B. No. 2435 would amend Chapter 89, HRS to specify that the benefits of the Hawaii employer-union health benefits trust fund are subject to negotiation. Further, this bill provides that disputes must be submitted to an arbitration panel for a final and binding decision.

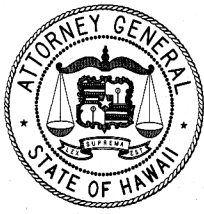
The Office of Collective Bargaining (OCB) has **CONCERNS** regarding this bill as follows:

- Currently, contributions toward health benefits premiums, but not benefits, are subject to negotiation, with the benefits determined by the Employer Union Trust Fund (EUTF) whose trustees are representatives of the

exclusive representatives and employer. Changes to the existing administration and infrastructure may be required.

- The cost benefits that are derived from negotiating with the Hawaii Medical Services Association and Kaiser Permanente Foundation on behalf of public employees for current health benefit programs may be diminished.
- The complexity of having to administer multiple plans based on variations between bargaining units would require a redesign of the administrative and operations infrastructure.
- Besides allowing active employees to negotiate health benefit plans, consideration will need to be given how retiree health benefit plans will be determined and funded.
- Allowing the negotiation of health benefit plans and associated benefit costs may allow for bargaining units to negotiate on a total compensation basis, thereby allowing a bargaining unit to apportion negotiated compensation between base compensation and health benefit cost for its bargaining unit members.
- Three (3) bargaining units (i.e., units 1, 5, and 7) do NOT have an impasse procedure ending in a final and binding arbitration.

Thank you for the opportunity to testify on this important measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 2435, RELATING TO COLLECTIVE BARGAINING.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, February 3, 2016 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
James E. Halvorson, Deputy Attorney General, or
Maria C. Cook, Deputy Attorney General

Chair Keith-Agaran, and Members of the Committee:

The Department of the Attorney General has concerns regarding this bill and opposes the bill in its present form..

First, this bill is inconsistent with the purpose of chapter 87A, Hawaii Revised Statutes, which gives the Employer-Union Health Benefits Trust Fund (EUTF) board broad authority and discretion to design health benefits for active and retired employees and their dependents.

Second, this bill is inconsistent with the purpose of the EUTF – to have a single health benefits delivery system. Act 88, Session Laws of Hawaii 2001, Sen. Stand. Com. Rep. No. 880 (2001). As has been stated in the State’s Auditor’s Report 99-20 (May 1999), the presence of multiple union plans had increased costs for both the members and the employers. Hence, the EUTF was created to provide a single health benefits delivery system. Having a single unified system minimizes fragmentation. It allows the employer to spread the risk among many people and provides more bargaining power when negotiating with providers.

Third, in addition to this bill allowing 14 collective bargaining units to independently negotiate health benefits such as plan designs, structures, and the selection of providers, there is a pending appeal where it is argued that retirees have a constitutional and contractual right to have the same health benefits as those offered to active employees. If this claim succeeds on appeal, by creating multiple active health plans, the State may create a situation where it must offer multiple health plans to retirees.

Finally, for bargaining units subject to interest arbitration, if the parties fail to reach an agreement on health benefits and contributions, these issues would be submitted to arbitration. Health benefits issues are complex, and amounts of contributions comprise a substantial portion of the State's general fund. Leaving such matters to an arbitration panel without expertise in this area creates uncertain financial exposure to the State.

We respectfully ask the Committee to hold this bill in its current form.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
SENATE BILL NO. 2435

February 3, 2016

RELATING TO COLLECTIVE BARGAINING

Senate Bill No. 2435 amends Chapter 89, HRS, to allow the negotiation of Hawaii Employer-Union Health Benefits Trust Fund (EUTF) benefits and to repeal the prohibition of using arbitration to resolve impasses or disputes relating to EUTF contributions/benefits, allowing arbitration panels to decide on EUTF matters.

The Department of Budget and Finance strongly opposes this bill for the following reasons.

First, allowing each bargaining unit to negotiate its own benefits could essentially create 14 different pools of employees, reducing the economies of scale in negotiations with carriers and increasing administrative complexity for EUTF. Each negotiating team would need to be advised or trained in health benefit matters, including compliance with federal requirements.

Second, allowing arbitration panels to decide matters relating to EUTF is fraught with uncertainty. 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 and under the provisions of this measure, they would also need to become experts in health benefit plan design. While difficult fiscal conditions can make it challenging to reach resolutions in collective bargaining negotiations, altering the current process by allowing 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.

Finally, the bill does not provide a resolution mechanism if the strike units (1, 5, and 7) cannot come to an agreement on EUTF matters in negotiations.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Judiciary and Labor
Wednesday, February 3, 2016 at 9:30 a.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai'i

SB 2435 – RELATING TO COLLECTIVE BARGAINING

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor:

We hereby provide the following testimony regarding Senate Bill 2435 – Relating to Collective Bargaining which proposes to amend Chapter 89, HRS, to specify that the benefits of the Hawai'i Employer-Union Health Benefits Trust (EUTF) becomes a mandatory subject of bargaining, and that disputes must be submitted to an arbitration panel for a final and binding decision.

The University of Hawai'i (UH) has concerns over the impact of these changes to Chapter 89, HRS, if such legislation is adopted and enacted.

The UH's workforce consists of employees in Bargaining Units 1, 2, 3, 4, 7, 8, 9 and 10. For Bargaining Units 7 and 8, the University of Hawai'i is legislatively established as the employer pursuant to HRS, §89-6(d)(4), since we are the only employer who employs Faculty and Administrative, Professional, and Technical employees. For purposes of negotiating successor agreements to Bargaining Units 7 and 8, the University of Hawai'i takes lead on negotiations with assistance, support, and guidance from the State Office of Collective Bargaining, through its Chief Negotiator.

Considering UH's unique distinction compared to other state units, the UH does not have the technical expertise, knowledge, and experience to engage in negotiations over health benefits since we have never been required to bargain over health benefits in the past. We believe we would need to either acquire and/or obtain outside professionals who possess the technical knowledge and understanding on the negotiation over health benefits and its related costs. Currently, we are not structured or prepared for such a change in practice.

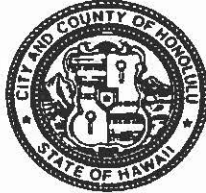
As noted above, we administer and manage eight (8) of the established fourteen (14) bargaining units under Chapter 89, HRS. If health benefits become subject to negotiations, the state could face situations in which bargaining units may have different benefit plans or the possibility of having the same benefit plan but different contribution rates for each bargaining unit based on the decision of an arbitration panel for those units subject to arbitration for impasse resolution. Moreover, for Bargaining Unit 7 impasse resolution through a final and binding arbitration decision is not legislatively mandated since they still have retained their right to strike.

Thank you for the opportunity to testify on this matter.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR DESIGNATE

NOEL T. ONO
ASSISTANT DIRECTOR

February 3, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair
and Members of the Committee on
Judiciary and Labor
The Senate
State Capitol, Room 221
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members of the Committee:

Subject: Senate Bill No. 2435
Relating to Collective Bargaining

The Department of Human Resources, City and County of Honolulu, opposes S.B. 2435 and would like to share our concerns with this measure. S.B. 2435 would dilute the statutory authority and obligations already vested with the Employer-Union Health Benefits Trust Fund ("EUTF"). Moreover, if passed, the measure would likely have an unforeseen negative financial impact to both the public employer and employees due to fragmentation as health care and administrative costs will likely increase if health care providers are required to craft separate health care plans for the various bargaining units.

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". The signature is written in a cursive style.

Carolee C. Kubo
Director

cc: Mayor's Office



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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

The Twenty-Eighth Legislature, State of Hawaii
The Senate
Committee on Judiciary and Labor

Testimony by
Hawaii Government Employees Association

February 3, 2016

S.B. 2435 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 2435, which will permit unions to negotiate not only the contributions to the Employer Union Health Benefits Trust Fund (EUTF), but also the benefits provided through the health plans.

This bill is part of a larger effort to reform the EUTF by changing the composition of the board and imposing stricter requirements on board members to fulfill their fiduciary responsibilities. We believe that benefits are an integral part of employee compensation and should be negotiated between unions and employers. Other reform efforts through negotiation must include effective mechanisms for controlling costs, requiring information on provider performance and enhancing efficiency.

As presently organized, the EUTF is not providing affordable health care to public employees, especially for employees who need family coverage and who are in a lower pay range. By negotiating both premiums and benefits, unions can identify benefit features that can be reduced or restructured without eliminating key coverage areas. Another objective of negotiating benefits is to promote preventive care while discouraging care that is not needed. Through negotiations, there will be greater incentives to implement wellness programs, which can help control plan costs over the long-term.

Thank you for the opportunity to testify in support of S.B. 2435.

Respectfully submitted,

Randy Perreira
Executive Director



UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

The Senate Committee on Judiciary and Labor
Wednesday, February 3, 2016
9:30 a.m.
Room 016

RE: SB2435, Relating to Collective Bargaining

Attention: Chair Gilbert Keith-Agaran, Vice Chair Maile Shimabukuro and
Members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support SB2435**, that provides unions the ability to negotiate contributions to the Employer Union Health Benefits Trust Fund (EUTF) and the benefits provided through the health plans.

This Bill reinforces the unions belief that benefits are an integral part of employee compensation and should be negotiated between unions and employers. Negotiating both premiums and benefits provides unions the ability to identify benefit features that meet the needs of their members without the loss of key coverage.

The ability to negotiate will provide greater incentives which can assist in controlling costs over the long-term.

UHPA urges the committee to **support SB2435**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kristeen Hanselman".

Kristeen Hanselman
Executive Director

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for SB2435 on Feb 3, 2016 09:30AM*
Date: Monday, February 01, 2016 12:28:12 PM

SB2435

Submitted on: 2/1/2016

Testimony for JDL on Feb 3, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov