

STAND. COM. REP. NO.

1345

Honolulu, Hawaii

MAR 21 2019

RE: H.B. No. 393
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred H.B. No. 393, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII EMPLOYER-UNION
HEALTH BENEFITS TRUST FUND,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Create a fiduciary duty on Hawaii Employer-Union Health Benefits Trust Fund trustees;
- (2) Prohibit transactions where the trustee has a conflict of interest; and
- (3) Establish liabilities for breach of fiduciary duty.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO. Your Committee received comments on this measure from the Hawaii Employer-Union Health Benefits Trust Fund and Department of Budget and Finance.

Your Committee finds that under existing law, Employer-Union Health Benefits Trust Fund (EUTF) trustees owe no fiduciary duty to the participants or beneficiaries of the EUTF when acting on



their behalf. Currently, EUTF trustees may represent participants or beneficiaries where there is a conflict of interest. This measure creates a fiduciary duty on EUTF trustees which will increase the accountability of the EUTF trustees to the participants or beneficiaries and better protect their interests.

Your Committee has amended this measure by:

- (1) Removing references to "participants and beneficiaries" and replacing those references with "employee-beneficiaries";
- (2) Removing language establishing personal liability of EUTF trustees for reimbursement to the EUTF for any losses to the EUTF resulting from a trustee's breach of their fiduciary duty; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 393, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 393, H.D. 1, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,




BRIAN T. TANIGUCHI, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Labor, Culture and the Arts
LCA

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>HB 393, HD1</i>	<i>LCA, JDC/WAM</i>	<i>3/12/2019</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)				✓
CHANG, Stanley	✓			
GABBARD, Mike	✓			
FEVELLA, Kurt				✓
TOTAL	<i>3</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes