

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY
ON
HOUSE BILL NO. 393, H.D. 1

February 26, 2019
2:05 p.m.
Room 325

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST
FUND

House Bill (H.B.) No. 393, H.D. 1, amends Chapter 87A, HRS, to add two sections to set the fiduciary duties of trustees of the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) in law, to clarify what would constitute a prohibited transaction by a fiduciary, and to clarify the liability of a fiduciary as a result of a breach of trust.

The Department of Budget and Finance has strong concerns regarding the proposed paragraph 87A-A(b) which states that fiduciaries of the EUTF shall discharge their duties with respect to a plan solely in the interest of the participants and beneficiaries. This designation of responsibility disregards the practical need to ensure that health and other benefit plans be provided at a cost affordable to both the public employers and the public employees as required by Section 87A-15, HRS. Should health benefit plans be designed with only the participants and beneficiaries in mind, plan costs may become unaffordable to the public employers and will affect their abilities to fund other priorities.

Thank you for your consideration of our comments.



STATE OF HAWAII
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

P.O. BOX 2121
HONOLULU, HAWAII 96805-2121
Oahu (808) 586-7390
Toll Free 1(800) 295-0089
www.eutf.hawaii.gov

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DONNA A. TONAKI

WRITTEN ONLY

TESTIMONY BY DEREK MIZUNO
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY
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Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees has not taken a position on this bill. EUTF staff would like to provide comments.

EUTF staff recommends that the proposed language in the bill comport to current language and definitions already in Chapter 87A, Hawaii Revised Statutes. For example, one component of this bill is that "All fiduciaries of the trust shall discharge their duties with respect to a plan solely in the interest of the participants and beneficiaries..." This language from Federal ERISA law, for pension plans, equates the participant with the employee/retiree and the beneficiary with the person who receives the benefits should the participant pass away. Participants and beneficiaries are not defined in Chapter 87A. Chapter 87A's definitions of employee-beneficiary includes the

employee, retiree, surviving spouse/domestic partner if they do not remarry or enter into another domestic partnership, and surviving child if there is no eligible surviving parent; and dependent-beneficiary includes the spouse, domestic partner, and children subject to age limits. It is unclear whether the intent of the bill is for the EUTF Board to act in the interests of the employee-beneficiaries and/or the dependent-beneficiaries.

Thank you for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirtieth Legislature, State of Hawaii
House of Representatives
Committee on Judiciary

Testimony by
Hawaii Government Employees Association

February 26, 2019

H.B. 393, H.D. 1 – RELATING TO THE HAWAII
EMPLOYER-UNION HEALTH BENEFITS TRUST FUND

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of H.B. 393 which creates a fiduciary duty on Employer-Union Health Benefits Trust Fund (EUTF) trustees, prohibits transactions where a trustee has a conflict of interest, and establishes liabilities for breach of fiduciary duty.

As written, H.B. 393, H.D. 1 seeks to make an important change to the EUTF trustees' legal obligation by requiring that each trustee act as a fiduciary of the trust. As fiduciaries, trustees will be required to make decisions based solely on the interest of the plan participants and beneficiaries, similar to private-sector health plans trusts. Board members who willfully violate their fiduciary responsibilities may be liable for any loss suffered by the plan, which increases the accountability of the trustees.

This measure, in conjunction with H.B. 392, which allows Employers and Exclusive Representatives the ability to negotiate health benefits and resolve disputes through binding arbitration, reforms the EUTF to be beneficial to employees and beneficiaries.

Thank you for the opportunity to testify in strong support of H.B. 393, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director