



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

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**ON THE FOLLOWING MEASURE:**

**H.B. NO. 2012, H.D. 1, RELATING TO COLLECTIVE BARGAINING.**

**BEFORE THE:**

**SENATE COMMITTEE ON JUDICIARY AND LABOR**

**DATE:** Thursday, March 17, 2016

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 016

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

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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. H.B. No, 2012, H.D. 1, would make Hawaii Employer-Union Health Trust Fund (EUTF) benefits a subject of bargaining and a subject that would be submitted to arbitration if the parties fail to reach an agreement.

First, this bill is inconsistent with the purpose of chapter 87A, Hawaii Revised Statutes, which gives the 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, these issues would be submitted to arbitration. Health benefits issues are complex and leaving such matters to an arbitration panel without expertise in this area creates uncertainty. The EUTF, as the subject matter expert, is the appropriate agency to determine the health benefits that cover public employees.

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

DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
DIRECTOR

RODERICK K. BECKER  
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 WESLEY K. MACHIDA**  
**DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE**  
**TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**ON**  
**HOUSE BILL NO. 2012, H.D. 1**

March 17, 2016  
9:30 a.m.

**RELATING TO COLLECTIVE BARGAINING**

House Bill No. 2012, H.D. 1, amends Chapter 89, HRS, to allow the negotiation of Hawaii Employer-Union Health Benefits Trust Fund (EUTF) benefits.

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.

In addition, the bill does not provide a resolution mechanism if the employer and bargaining unit cannot come to an agreement on EUTF benefits in negotiations.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 03/17/2016

**Time:** 09:30 AM

**Location:** 016

**Committee:** Senate Judiciary and Labor

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** HB 2012, HD1 RELATING TO COLLECTIVE BARGAINING.

**Purpose of Bill:** Specifies that the benefits of the Hawaii employer-union health benefits trust fund are subject to negotiation. (HB2012 HD1)

**Department's Position:**

The Department of Education (Department) has concerns about HB 2012, HD 1, which would make Hawaii Employer-Union Health Benefits Trust Fund (EUTF) benefits a subject of bargaining and repeal the current process whereby health benefits are determined by the EUTF.

The Department's workforce consists of employees in Bargaining Units 1, 2, 3, 4, 5, 6, 8, 9, 10, and 13. For purposes of negotiating successor agreements to Bargaining Units 5 and 6, the Department takes the lead on negotiations with assistance, support, and guidance from the State Office of Collective Bargaining, through its Chief Negotiator.

Bargaining unit 5 (teachers) is a strike unit, and therefore if impasse is declared, the issues are not determined through binding interest arbitration. Bargaining unit 6 (educational officers), however, does have final and binding interest arbitration. HB 2012 does not expressly provide a resolution for unit 5, or other strike units, should the parties not be able to reach a negotiated agreement concerning health benefits. For bargaining unit 6, it appears that benefits are subject to arbitration if agreement is not reached by the parties. The Department is concerned about divisiveness among the educator community to the extent health benefits for educational officers could be determined by an arbitrator but the teachers would be without a comparable statutory remedy.

In addition, the Department's negotiating team has never engaged in negotiations over health benefits and lacks the technical background, training and knowledge that would be required to properly negotiate this complicated subject. The Department also notes the federal Affordable Care Act has imposed new and numerous health benefits requirements, some of which are evolving and subject to change. There are significant penalties for non-compliance with the federal requirements and there may be the need to revise plans under time constraints that cannot be accommodated by collective bargaining. The EUTF, as the subject matter expert, is

the appropriate agency to determine the health benefits that cover a significant portion of the State's population. These critical services should not be the subject of negotiations by non-experts.

For the reasons stated, the Department requests the bill be held.

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

March 14, 2016

TESTIMONY TO THE  
SENATE COMMITTEE ON JUDICIARY AND LABOR  
For Hearing on Thursday, March 17, 2016  
9:30 a.m., Conference Room 016

By

JAMES K. NISHIMOTO  
CHIEF NEGOTIATOR, OFFICE OF COLLECTIVE BARGAINING

**House Bill No. 2012, H.D.1  
Relating to Collective Bargaining**

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

H.B. No. 2012, H.D. 1 would amend Chapter 89, HRS to specify that the benefits  
of the Hawaii employer-union health benefits trust fund are subject to negotiation.

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 as a group for current health benefit programs may be diminished if individual bargaining units are allowed to negotiate separately.
- The complexity of having to administer multiple plans based on variations between bargaining units would require a redesign of the administrative and operations infrastructure.
- Allowing the negotiation of health benefit plans and associated benefits 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.
- By allowing active employees to negotiate health benefit plans, there may be unintended consequences with regard to the health benefit plans for other groups such as elected and appointed officials, judges and retirees.
- It is not clear from HD1 whether benefits will be arbitrable. 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.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Judiciary and Labor  
March 17, 2016 at 9:30 a.m.

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

### HB 2012 HD1 – RELATING TO COLLECTIVE BARGAINING

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

We hereby provide the following testimony regarding House Bill 2012, House Draft 1 – 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) become a mandatory subject of bargaining.

The University of Hawai'i (UH) continues to have 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 (APT) 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 in the area of negotiating health benefits and its related costs. Currently, we are not structured or prepared for such a change in practice. Furthermore, while contributions amounts are not subject to arbitration it still remains unclear as to whether benefits will be and whether that is the Legislature's intent.

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. Such potential differences in bargaining unit plans and contribution rates would reduce any possible economies of scale, as well as, increase administrative requirements to ensure expertise in negotiating and managing such different benefit plans. While employer contributions have been the standard, including the subject of benefits as a mandatory subject will definitely change the scope and application of negotiations in which we have concerns over its intended and unintended impact and scope. Thank you for the opportunity to testify on this matter.





The Senate Committee on Judiciary and Labor  
Thursday, March 17, 2016  
9:30 a.m., Room 016

**RE: HB 2012, HD1, 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) supports the purpose and intent of **HB 2012, HD1**, which will allow the unions the ability to negotiate not only the contributions to the Employer-Union Health Benefits Trust Fund (EUTF), but also the benefits provided through the health plans.

We do respectfully request that **HB 2012, HD1** revert back to its original form, allowing an arbitration panel to fully weigh employee's' salary and benefit package for dispute resolution purposes.

This Bill, in its original form, reinforces the union's 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 health care costs over the long-term.

UHPA appreciates the opportunity to provide comments and urges the committee to **support passing this measure in its original form.**

Respectfully submitted,

A handwritten signature in black ink that reads "Kristeen Hanselman".

Kristeen Hanselman  
Executive Director

University of Hawaii  
Professional Assembly



**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**

**March 17, 2016**

**H.B. 2012, H.D. 1 – RELATING TO**  
**COLLECTIVE BARGAINING**

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2012, H.D. 1, 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. However, we respectfully request that the bill revert to its original form.

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. We respectfully request the bill revert to its original form, as it is necessary for an arbitration panel to fully weigh employees' salary and benefit package for dispute resolution purposes.

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 H.B. 2012, H.D. 1, with the respectful request to revert to the original language.

Respectfully submitted,

**Randy Perreira**  
**Executive Director**

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDL Testimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for HB2012 on Mar 17, 2016 09:30AM\*  
**Date:** Monday, March 14, 2016 10:16:23 AM

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**HB2012**

Submitted on: 3/14/2016

Testimony for JDL on Mar 17, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments:

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**Cc:**  
**Subject:** \*Submitted testimony for HB2012 on Mar 17, 2016 09:30AM\*  
**Date:** Monday, March 14, 2016 10:44:29 AM

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**HB2012**

Submitted on: 3/14/2016

Testimony for JDL on Mar 17, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Virgil Medeiros	Individual	Support	No

**Comments:**

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**Subject:** \*Submitted testimony for HB2012 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 1:04:33 PM

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**HB2012**

Submitted on: 3/16/2016

Testimony for JDL on Mar 17, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Oppose	No

Comments:

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