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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 LABOR & PUBLIC EMPLOYMENT
ON
SENATE BILL NO. 2428 SD2

March 18, 2016, 10:00 a.m.

RELATING TO PUBLIC EMPLOYEES

Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

The Hawaii Employer-Union Health Benefits Trust Fund (EUTF) Board of Trustees supports the intent of this bill. Currently, the EUTF has approximately 1,450 or 2.2% (out of 65,000 total) retirees and surviving spouses who pay a portion or all of the monthly premium. The EUTF would like to make the payment of health care premiums for these retirees as well as employees on leave without pay as simple as possible. To that end, the EUTF has been investigating electronic payment options such as by credit card and through deductions from member bank accounts. The EUTF has also been in discussions with the Employees' Retirement System (ERS) regarding deducting the retirees' portion of health premiums from the retirees' ERS pensions. The EUTF and ERS have recently determined that EUTF can share information with the ERS without the information being considered protected health information and subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as long as the EUTF

EUTF's Mission: We care for the health and well being of our beneficiaries by striving to provide quality benefit plans that are affordable, reliable, and meet their changing needs. We provide service that is excellent, courteous, compassionate, and informative.

obtains the retirees' consent to the disclosure of the information to the ERS including but not limited to their name and monthly deduction amount.

The EUTF would like to implement electronic payment methods as soon as possible. However, the EUTF Benefits Administration System will need reprogramming to capture the financial information and export this information to a file that is compatible with the EUTF's financial institution and/or the ERS' formatting requirements.

Additionally, the EUTF will have to develop a process to upload the electronic payments into the Benefits Administration System from its financial institution, third party and ERS. The programming, testing and validation could take significant time. The EUTF believes that the credit card and/or deductions from member bank accounts can be implemented on or before January 1, 2017. Deductions from ERS pensions will be implemented thereafter.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
DEPUTY EXECUTIVE DIRECTOR

**STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM**

**TESTIMONY BY THOMAS WILLIAMS
EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII**

**TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON**

SENATE BILL NO. 2428, S.D. 2

MARCH 18, 2016, 10:00 A.M.

RELATING TO PUBLIC EMPLOYEES

Chair Nakashima, Vice Chair Keohokalole and Members of the Committee,

S.B. 2428, S.D. 2 would require the Employees' Retirement System (ERS) to transfer contributions by retirees and beneficiaries to the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) that represent the difference between the monthly contributions by the State or county to the EUTF and the actual costs of health benefit plans under the EUTF.

The ERS Board of Trustees has not taken a formal position on this proposal; however, the ERS staff has the following comments and concerns:

- This bill could make the ERS subject to the federal Health Insurance Portability and Accountability Act (HIPAA), thereby exposing the ERS to potential liability and responsibilities beyond the ERS's liabilities under state law. All responsibility for HIPAA compliance under this bill should be borne by the EUTF, which is already subject to HIPAA.
- We believe the bill amends the wrong sections of the Hawaii Revised Statutes (HRS). The bill amends section 88-6, which relates to the timing and manner in which payments are to be made. The amendment should be made to section 88-95, which provides for withholding of payments to the employer-union health benefits trust fund (EUTF) and to employee organization for dues and insurance premiums.



Employees' Retirement System
of the State of Hawaii

To address our concerns, we request the revisions set forth in the attachment. The revisions:

- Allow the ERS to rely on a list, provided by the EUTF, of individuals and the specific amounts to be withheld from each individual's ERS benefits. This will eliminate the unnecessary transmission of potentially "protected health information" and thereby reduce the risk of an inadvertent breach of the requirements of HIPAA, which would have adverse consequences for the EUTF, ERS and the affected individuals.
- Place the responsibility on the EUTF for compliance with HIPAA.
- Place the respective responsibilities of the EUTF and the ERS in their governing statutes.

The ERS is willing to process withholdings for payment to EUTF so long as the process does not subject ERS to HIPAA compliance requirements. Additionally, we request a delayed implementation date of July 1, 2017 for this legislation to allow sufficient time for computer programming and process development.

Thank you for this opportunity to provide testimony on S.B. 2428, S.D. 2.

ATTACHMENT TO TESTIMONY OF THOMAS WILLIAMS, EXECUTIVE DIRECTOR,
EMPLOYEES' RETIREMENT SYSTEM TO THE HOUSE COMMITTEE ON LABOR AND
PUBLIC EMPLOYMENT

RE: S.B. 2428, S.D. 2

SECTION 2. Chapter 87A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§87A- Retiree and beneficiary contributions. The fund may require contributions by retirees and beneficiaries to the fund that represent the difference between the monthly contributions by the State or county to the fund and the actual costs of health benefits plans, under sections 87A-33, 87A-33.5, 87A-34, 87A-35, and 87A-36, to be paid from withholding from monthly or semi-monthly amounts payable by the employees' retirement system to the retiree or beneficiary or from automatic electronic payment from a financial institution account or credit card account designated by the retiree or beneficiary.

A retiree or beneficiary may elect to opt out of the requirement that payment be made from withholding from amounts payable by the employees' retirement system to the retiree or beneficiary.

The fund shall provide to the employees' retirement system the names of the retirees and beneficiaries subject to withholding under this section, the respective amounts to be withheld, and other information required by the employees' retirement system to identify the individuals subject to withholding. In providing the foregoing information to the employees' retirement system, the fund shall take such steps as are necessary to ensure that the employees' retirement system is not, by reason of the receipt and possession of the information, subject to the federal Health Insurance Portability and Accountability Act.

The fund shall submit an annual report to the legislature on the contribution amounts received from the employees' retirement system under this subsection."

SECTION 3. Section 88-95, Hawaii Revised Statutes, is amended to read as follows:

"§88-95 Withholding of dues and insurance premiums. (a) A ~~[retired member,]~~ retirant, if the ~~[retired member]~~ retirant requests in writing, may have withheld from the ~~[retired member's]~~ retirant's pension, annuity, or retirement allowance, payments to the Hawaii employer-union health benefits trust fund and employee organizations for dues and insurance premiums.

(b) The system shall withhold from the monthly or semi-monthly benefits payable to retirants and beneficiaries under this chapter the amounts subject to withholding pursuant to section 87A-____. The system may rely, without inquiry, on the information provided to the system by the Hawaii employer-union health benefits trust fund regarding the names of the retirants and beneficiaries subject to withholding, the respective amounts to be withheld from the retirants and beneficiaries, and other information provided by the Hawaii employer-union health benefits trust fund to identify the individuals subject to withholding. The system may require the Hawaii employer-union health benefits trust fund to provide information sufficient to identify the retirants and beneficiaries subject to withholding under this subsection."