

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON
HOUSE BILL NO. 1356

March 24, 2015

RELATING TO UNFUNDED LIABILITIES

House Bill No. 1356 establishes the Rate Stabilization Reserve Fund (RSRF) to stabilize the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) when there is insufficient money to cover the costs of providing benefits to employee-beneficiaries and dependent-beneficiaries. The measure will also cap the employer contributions to the separate trust fund when the separate accounts for each public employer within the separate trust fund have a combined balance of at least \$2 billion.

The Department of Budget and Finance strongly opposes this measure. Act 268, SLH 2013, mandated the establishment of the Other Post-Employment Benefits (OPEB) trust fund for the purpose of receiving employer contributions that will prefund OPEB costs for retirees and their beneficiaries. Act 268 required the EUTF Board of Trustees to “establish and maintain a separate account for each public employer within the separate trust fund to accept and account for each public employer’s contributions. Employer contributions to the separate trust fund shall be irrevocable, all assets of the fund shall be dedicated exclusively to providing health and other benefits to retirees and their beneficiaries.”

House Bill No. 1356 conflicts with the provisions of Act 268 by taking funds from the OPEB trust fund and depositing them into the RSRF to fund some of the very benefits that the OPEB trust fund will accomplish through pre-funding. It is akin to

taking money from the Employees' Retirement System (ERS) to deposit into another revolving fund to make pension contribution payments to the ERS.

Further, the provisions of Act 268 provided for pre-funding of the State's Annual Required Contribution (ARC) for OPEB beginning with a 20% funding of the ARC in FY 15 and progressively increasing to 100% funding of the ARC in FY 19. The rating agencies, who review and rate the State's debt have stated that progression to 100% funding of the ARC is a substantial credit positive and will yield long-term benefits in reducing the State's unfunded OPEB liabilities. While it is recognized that fully funding the ARC results in substantial annual budget requirements, the pre-funding of the OPEB liability, similar to the annual contributions to the State's ERS, significantly addresses the State's unfunded OPEB liabilities. We are very concerned that termination of the 100% OPEB ARC funding would be viewed as a credit concern and may negatively impact the State's credit rating.

This measure will not reduce the unfunded actuarial accrued liability of the EUTF or meet with the Governmental Accounting Standards Board's requirements for OPEB trusts.



The Senate Committee on Judiciary and Labor
Tuesday, March 24, 2015
9:25 a.m.

HB 1356, Relating to Unfunded Liabilities.

Dear Chairperson Keith-Agaran and Committee Members:

The University of Hawaii Professional Assembly (UHPA) is opposed to the measure HB 1356. It appears to be in conflict with Act 268 which was formed to establish a fiscally viable approach to providing health care to public employees.

UHPA urges the committee to defer this measure.

Respectively submitted,

Kristeen Hanselman
Associate Executive Director

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

1017 Palm Drive • Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 • Facsimile: (808) 593-2160
Web Page: <http://www.uhpa.org>

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1356 on Mar 24, 2015 09:25AM
Date: Monday, March 23, 2015 10:44:33 AM

HB1356

Submitted on: 3/23/2015

Testimony for JDL on Mar 24, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
CHU LAN SHUBERT-KWOCK	CHINATOWN BUSINESS & COMMUNITY ASSOCIATION	Support	No

Comments: We support funding a reserve fund for our State and County retirees to ensure sustainability.

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.

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THE SENATE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON JUDICIARY & LABOR
Senator Gilbert Keith-Agaran, Chair

3/24/2015
Rm. 016, 9:25 AM

HB 1356
Relating to Unfunded Liability

Chair Keith-Agaran and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels & Resorts in support of HB 1356.

In following the issue of the unfunded liabilities of the Hawaii Employer-Union Health Benefits Trust Fund (EUTF), it is a problem begging for a solution.

The unfunded liability issue is a problem that appears to be difficult to solve, so any proposed solution should be reviewed. In reviewing HB 1356, it is one such proposal, which should be given further review.

Thank you for the opportunity to submit this testimony.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Rate Stabilization Reserve Fund for OPEB

BILL NUMBER: HB 1356

INTRODUCED BY: Cachola, Evans, Luke, Mizuno, Rhoads, Saiki, Souki

EXECUTIVE SUMMARY: This bill deals with other post-employment benefits for state workers – meaning ERS and EUTF. Act 268, SLH 2013, established a mechanism to pay down the unfunded liabilities over time. The bill recites that it can deal with those problems without raising taxes, affecting workers’ benefits, or laying off people. The reality, however, is that at its core, the bill tosses away the fiscal discipline of Act 268, instead relying upon a pay-as-you-go mentality. In addition, key pieces of this legislation conflict with federal law and the terms of the existing OPEB trust instruments.

BRIEF SUMMARY: Adds a new section to HRS chapter 87A that establishes a rate stabilization reserve fund. The fund is to provide reserve funding to stabilize the fund when there is insufficient money in the fund to cover the costs of providing health and other benefit plans for employee-beneficiaries and dependent-beneficiaries. Unless otherwise specified by law, the rate stabilization reserve fund shall not be subject to appropriations for any purpose and shall not be subject to claims by creditors of the employers.

Provides that any balance in the employee benefits trust fund under section 87A-31 will be transferred to the new rate stabilization reserve fund.

Deletes the language providing that a public employer’s required contribution to the employee benefits trust fund includes an amortization payment that is designed to fund the unfunded actuarial accrued liability over the next thirty years. Adds language stating that no public employer contribution shall be required if the separate accounts for each public employer within the employee benefits trust fund have a combined balance of at least \$2 billion.

STAFF COMMENTS: The state long ago agreed to pay post-employment benefits to its workers. ERS, or Employees’ Retirement System, represents the retirement benefits. EUTF, the Employer-Union Health Benefits Trust Fund, represents the medical benefits. At June 30, 2013, ERS had an “unfunded actuarial accrued liability” of about \$8.4 billion. For EUTF, the number was about \$18.2 billion. Those numbers represent the present value of what we taxpayers owe for these future benefits. In comparison, the total annual state general fund budget is \$5.5 billion.

Faced with these staggering numbers, Act 268, SLH 2013, was enacted. Act 268 requires public employers to pay actuarially determined annual required contributions to fund the present cost of the benefits and to eat away at the unfunded balance over thirty years’ time. If the public employers do not pay their required contribution, the general excise tax would be sequestered to pay it if the delinquent employer was the state; if the delinquent employer was one of the counties, that county’s share of the transient accommodations tax would be sequestered. Again, the idea was to pay down the unfunded liability over a period of several years.

The bill proposes to deal with the issue by establishing a new fund to “stabilize” the system when there is insufficient money. The first issue, of course, is figuring out how to fund this fund.

To accomplish this trick, the bill basically proposes to do away with the amortization built into Act 268. “The State and counties cannot afford to pay for both the increasing cost of healthcare premiums as well as the prefunding of the liability,” the bill’s preamble states, and it goes on to observe that “most state governments, including Hawaii, currently follow a pay-as-you-go approach, paying an amount each year about equal to the benefits distributed or claimed in that year.” In other words, the bill proposes to deal with the unfunded liabilities problem by denying that it’s a problem. “Don’t worry,” it’s telling everyone. “We can pay the current year’s costs of the post-employment benefit programs we created. There won’t be any rainy day. So just go about your business.”

This might be fine if there is in fact no rainy day, and the economy chugs along giving us enough money to pay these obligations. But if bad things happen – we’ve recently had to face crippling economic recessions as well as natural disasters – then we might deeply regret ever having gone into pay-as-you-go mode.

In addition, one of the central premises behind the proposed stabilization fund is that it won’t be raided, ever. The reality, however, is that nice, fat stabilization funds make for very tempting raid targets. However well-intentioned this legislature is, however, it normally can’t bind a future legislature.

Next, the bill proposes that the stabilization fund be fed by transfers from the existing funds. Nominally such transfers would accomplish nothing, being payments of money from the State’s right pocket to its left pocket, but, as previous testifiers have pointed out, such transfers would violate the trust instrument that establishes the trust funds in the first place, and they would violate the Internal Revenue Code, a federal law that cannot be modified by state law. Such transfers also potentially violate ERISA, a federal law that has been held to have a very broad preemptive sweep. If enacted, then, it seems clear that key pieces of the plan won’t work.

Digested 3/23/2015

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB1356 on Mar 24, 2015 09:25AM
Date: Monday, March 23, 2015 1:25:12 PM

HB1356

Submitted on: 3/23/2015

Testimony for JDL on Mar 24, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Campagna	Individual	Support	No

Comments: Mahalo for the opportunity to submit testimony in support of HB1356. Very simply, if there is an opportunity to save money and/or not have to raise GE and RP tax, we should support it. HB1356 lessens the pain of the overall liability.

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Aloha Legislators,

Thank you for your time and consideration for this bill, HB1356.

We have come to understand that the State Unfunded Liability is estimated to reach \$18B by 2016 and that Act 268 from 2013 mandated that the State and Counties contribute to pre-fund both the Other Post-Employment Benefits (OPEB) as well as the Monthly Premiums on an increasing schedule from \$100M to \$500M by 2019 and then for 30 years thereafter.

This is too heavy of a burden to pass along to our children.

This bill creatively addresses the Health Unfunded Liability **Without:**

- Increasing the State GE tax & County Real Property Tax
- Laying off current employees
- Reducing already promised benefits
- Or Combination of the above

Continuously paying \$500M for 30 years beginning in 2019 is not sustainable for the State, therefore this bill proposes that the health benefits funding mechanism established in the Act is the next best alternative to establishing a self-insured health benefits program for public employers and employees.

Therefore I urge all members to pass this bill.

Respectfully yours,

Charly Micua, Owner/Administrator(Foster Home)



Aloha Legislators,

Thank you for your time and consideration for this bill, HB1356.

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Respectfully yours,

Cynthia Pablo, Owner (Foster Home)



Aloha Legislators,

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Respectfully yours,

Elma V. Tierra
President, Adult Foster Home of the Pacific



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Respectfully yours,

Estela Ventura, Primary Caregiver



Aloha Legislators,

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Therefore I urge all members to pass this bill.

Respectfully yours,

Jessica Ferrer, Student



Aloha Legislators,

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Therefore I urge all members to pass this bill.

Respectfully yours,

Karen Tomlins, Certified Nurse Aide



Aloha Legislators,

Thank you for your time and consideration for this bill, HB1356.

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Therefore I urge all members to pass this bill.

Respectfully yours,

Lejitina Ferrer, Housekeeping, Hyatt, (Retired)

March 22, 2015

Aloha Legislators,

Thank you for your time and consideration for this Bill HB1356.

We have come to understand that the State Unfunded Liability is estimated to reach \$188M by 2016 and that Act 268 from 2013 mandated that the State and Counties contribute to pre-fund both the Other Post-employment Benefits (OPEB) as well as the Monthly Premiums on an increasing schedule from \$100M to 500 M by 2019 and then for 30 years thereafter.

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This bill creatively addresses the Health Unfunded Liability WITHOUT:

- Increasing the State GE tax & County Real Property Tax
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- Or combination of the above

Continuously paying \$500M for 30 years beginning in 2019 is not sustainable by the State, therefore the bill proposes that the health benefits funding mechanism established in the Act is the next best alternative to establishing a self-insured health benefits program for public employers and employees.

Therefore I urge all members to pass the bill.

Sincerely,

Civalina Longboy



Aloha Legislators,

Thank you for your time and consideration for this bill, HB1356.

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Therefore I urge all members to pass this bill.

Respectfully yours,

Lolita Q. Velasco, Food Prep, Warabeya USA



Aloha Legislators,

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Respectfully yours,

Lucrecia Pastor, CNA



Aloha Legislators,

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Respectfully yours,

Magielyn Dulay



Aloha Legislators,

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Respectfully yours,

Marina Gamatero, PCG



Aloha Legislators,

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Respectfully yours,

MaryRose Bamba, Certified Nurse Aide



Aloha Legislators,

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Respectfully yours,

Melba Sagisi, PCG



Aloha Legislators,

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Respectfully yours,

Melendrina Bumanglag, CAN



Aloha Legislators,

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Mila Burcena, CAN



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Respectfully yours,

Norma Cabus, PCG



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Therefore I urge all members to pass this bill.

Respectfully yours,

Perly Alaycay-Quiaot, PCG



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Therefore I urge all members to pass this bill.

Respectfully yours,

Ramon C. Tierra, Cook, Westin Moana SurfRider



Aloha Legislators,

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Respectfully yours,

Tina Gagabi, PCG