



GOV. MSG. NO. 1315

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 10, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

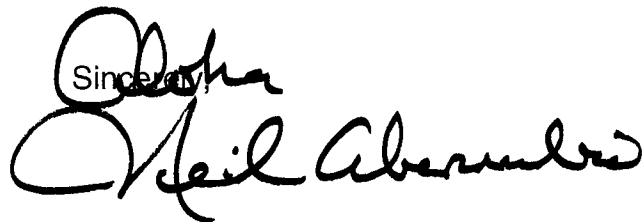
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

I am transmitting herewith SB2214 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2214 SD2 HD2 CD1

RELATING TO COLLECTIVE BARGAINING.

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2012

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2214

Honorable Members
Twenty-Sixth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2214, entitled "A Bill for an Act Relating to Collective Bargaining."

The purpose of this bill is to amend chapter 89 of the Hawaii Revised Statutes (HRS) to transfer from the Legislature to an arbitration panel the authority to decide amounts of contributions paid by the public employers to the Hawaii Employer-Union Health Benefits Trust Fund ("EUTF") in case of disputes or impasses between the unions and the public employers. This would make the arbitration award as to EUTF contributions final and binding on the parties.

This bill is objectionable because it is inappropriate. In 1984 when the Legislature amended section 89-9, HRS, to mandate collective bargaining over "the amounts of contributions by the State and respective counties to the Hawaii public employees' health fund," the Legislature specifically excluded amounts of contributions from arbitration as a means to resolve impasses or disputes. Instead, the Legislature retained the authority to make such decision if the parties have not reached an agreement. The alternative proposed by this bill, of specifically including amounts of contributions as a subject of arbitration, is counter-productive to collective bargaining and sound financial planning.

EUTF contributions comprise a large and growing portion of the State's budget, and an arbitration panel whose members are not accountable to the public should not make decisions regarding them. The fact that there is no history of actual public employer EUTF contribution arbitration awards in Hawaii also increases the uncertainty regarding a negative outcome for the financial stability of the State.

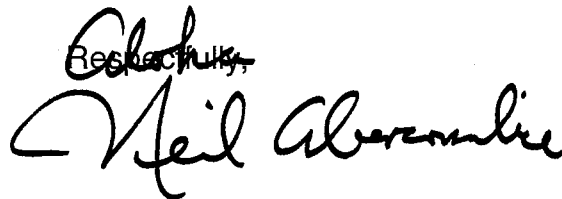
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Further, if an arbitration award exceeds the amount that the public employers can afford to pay, an arbitration decision will be final and binding on the union and the public employer, and the public employer would be required to take whatever action is necessary to carry out and effectuate the arbitration award. The City of Scranton, Pennsylvania, recently experienced a similar scenario with disastrous results.

In Hawaii, an arbitration award would not be binding on the Legislature with regard to funding of cost items. Thus, legislative approval would still be required of any arbitration award. If the Legislature rejected the cost items, such matters would be returned to the parties for further negotiation. However, requiring the parties to renegotiate in a rapidly declining or unsettled fiscal situation in the wake of the arbitration proceedings serves only to highlight competing interests.

The involvement of multiple arbitration panels from different bargaining units subject to interest arbitration will increase the likelihood of variability in the EUTF contribution amounts, which would make the planning and administration of health premiums more difficult. Arbitration in these circumstances works against good faith collective bargaining.

For the foregoing reasons, I am returning Senate Bill No. 2214 without my approval.

Respectfully,
Neil Abercrombie

NEIL ABERCROMBIE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 89-9, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsection (a) to read:
4 "(a) The employer and the exclusive representative shall
5 meet at reasonable times, including meetings sufficiently in
6 advance of the February 1 impasse date under section 89-11, and
7 shall negotiate in good faith with respect to wages, hours, the
8 amounts of contributions by the State and respective counties to
9 the Hawaii employer-union health benefits trust fund to the
10 extent allowed in subsection (e), and other terms and conditions
11 of employment [~~which~~] that are subject to collective bargaining
12 and [~~which~~] that are to be embodied in a written agreement as
13 specified in section 89-10 [~~, but such~~]; provided that the
14 obligation [does] to meet and negotiate shall not compel either
15 party to agree to a proposal or make a concession [~~, provided~~
16 ~~that the parties may not negotiate with respect to cost items as~~
17 ~~defined by section 89-2 for the biennium 1999 to 2001, and the~~
18 ~~cost items of employees in bargaining units under section 89-6~~



1 ~~in effect on June 30, 1999, shall remain in effect until July 1,~~
2 ~~2001]."~~

3 2. By amending subsection (e) to read:

4 "(e) Negotiations relating to contributions to the Hawaii
5 employer-union health benefits trust fund shall be for the
6 purpose of agreeing upon the amounts ~~[which]~~ that the State and
7 counties shall contribute under section ~~[87-4,]~~ 87A-32, toward
8 the payment of the costs for a health benefits plan, as defined
9 in section ~~[87-1(8),]~~ 87A-1, and group life insurance benefits~~[~~
10 ~~and]; provided that the parties shall not be bound by the~~
11 ~~amounts contributed under prior agreements[; provided that~~
12 ~~section 89-11 for the resolution of disputes by way of~~
13 ~~arbitration shall not be available to resolve impasses or~~
14 ~~disputes relating to the amounts the State and counties shall~~
15 ~~contribute to the Hawaii employer-union health benefits trust~~
16 ~~fund]."~~

17 SECTION 2. Section 89-11, Hawaii Revised Statutes, is
18 amended by amending subsection (g) to read as follows:

19 "(g) The decision of the arbitration panel shall be final
20 and binding upon the parties on all provisions submitted to the
21 arbitration panel. ~~[If the parties have reached agreement with~~
22 ~~respect to the amounts of contributions by the State and~~



1 ~~counties to the Hawaii employer union health benefits trust fund~~
2 ~~by the tenth working day after the arbitration panel issues its~~
3 ~~decision, the final and binding agreement of the parties on all~~
4 ~~provisions shall consist of the panel's decision and the amounts~~
5 ~~of contributions agreed to by the parties. If the parties have~~
6 ~~not reached agreement with respect to the amounts of~~
7 ~~contributions by the State and counties to the Hawaii employer-~~
8 ~~union health benefits trust fund by the close of business on the~~
9 ~~tenth working day after the arbitration panel issues its~~
10 ~~decision, the parties shall have five days to submit their~~
11 ~~respective recommendations for such contributions to the~~
12 ~~legislature, if it is in session, and if the legislature is not~~
13 ~~in session, the parties shall submit their respective~~
14 ~~recommendations for such contributions to the legislature during~~
15 ~~the next session of the legislature. In such event, the final~~
16 ~~and binding agreement of the parties on all provisions shall~~
17 ~~consist of the panel's decision and the amounts of contributions~~
18 ~~established by the legislature by enactment, after the~~
19 ~~legislature has considered the recommendations for such~~
20 ~~contributions by the parties. It is strictly understood that no~~
21 ~~member of a bargaining unit subject to this subsection shall be~~
22 ~~allowed to participate in a strike on the issue of the amounts~~



1 ~~of contributions by the State and counties to the Hawaii~~
2 ~~employer-union health benefits trust fund.]~~ The parties shall
3 take whatever action is necessary to carry out and effectuate
4 the final and binding agreement. The parties may, at any time
5 and by mutual agreement, amend or modify the panel's decision.

6 Agreements reached pursuant to the decision of an
7 arbitration panel and the amounts of contributions by the State
8 and counties to the Hawaii employer-union health benefits trust
9 fund, as provided herein, shall not be subject to ratification
10 by the employees concerned. All items requiring any moneys for
11 implementation shall be subject to appropriations by the
12 appropriate legislative bodies and the employer shall submit all
13 such items within ten days after the date on which the agreement
14 is entered into as provided herein, to the appropriate
15 legislative bodies."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

APPROVED this day of , 2012