



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Comments made to
Senate Committee on Ways and Means
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By
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SB 885 SD1 – RELATING TO COLLECTIVE BARGAINING

Chair Ige and Vice Chair Kidani and Members of Senate Ways and Means Committee, I am submitting written comments on behalf of the University of Hawai'i regarding Senate Bill 885 Senate Draft 1 – Relating to Collective Bargaining which proposes to amend HRS, Chapter 89, by making housekeeping amendments regarding the scope of negotiations and transfers the authority from the Legislature to an arbitration panel to decide upon the amount of employer contributions toward the Hawai'i Employer-Union Benefit Trust Fund (EUTF) in cases of disputes or impasses to bargaining units subject to interest arbitration.

The University of Hawai'i has reservations regarding the impact, intended or otherwise, of the proposed legislation if enacted.

The University of Hawai'i has covered employees in Units 1, 2, 3, 4, 7, 8, 9 and 10. Units 2, 3, 4, 8, 9 and 10 are all subject to interest arbitration while Unit 1 and 7 have the right to strike to resolve disputes or impasses over bargaining over successor contracts. Unit 7 and 8 consists of employees who work only for the University of Hawai'i system, and thus, we are considered their only employer.

Currently, the Legislature has the sole authority to decide upon the amount of employer contributions made to the EUTF if the parties are unable to resolve this issue during interest arbitration. This allows the Legislature to consider and take into account the amount of employer EUTF contributions that are being made or are going to be made to other bargaining units, as well as, its priority in the overall budget. The Legislature's decision is final and binding and these interest arbitration units cannot participate in a strike over the issue of employer EUTF contributions. The proposed legislation, if enacted, will allow an arbitration panel to decide on these amounts during the interest arbitration proceedings as a cost item subject to Legislative funding. With six bargaining units within the University subject to interest arbitration, it could be a possibility that all six will be subject to different arbitration panels. This concern was noted in Standing Committee Report No. 276 by the Senate Committee on Judiciary

and Labor. That outcome could lead to having all six arbitration decisions on employer EUTF contributions differ or vary from one bargaining unit to the next. This would be an administrative nightmare that may also require an increase in administrative costs due to its complexity and management. EUTF employer contributions have become a very sensitive issue during negotiations in recent years that has been managed by the parties agreeing to favored nation clauses. In essence, these favored nation clauses have been used to support the concept of equity that is an important factor in maintaining a healthy and productive workforce. As an employer, we are concerned that such possibilities could become a reality since an arbitration panel does not have to consider the issue of equity as a primary factor in their decision.

There is also a concern as to whether further amendments to the chapter would be required to enact this law. EUTF contributions subject to interest arbitration will now be a cost item subject to Legislative funding. For bargaining units not subject to interest arbitration, the Legislature currently has the authority to either fund or reject cost items as a whole that are submitted to the Legislature for consideration. If the Legislature decides to reject the cost items, the cost items as a whole are returned to the parties for further bargaining. However, this caveat only applies to bargaining units not subject to interest arbitration. EUTF contributions will now be considered as part of the cost items for interest arbitration units. There is no statutory mechanism under HRS, §89-11, for interest arbitration units to allow the Legislature to reject cost items with the ability to return cost items as a whole to the parties for further bargaining. The law only provides that the parties may by mutual agreement, modify or amend the arbitration decision. This needs to be taken into consideration if the Legislature intends to relinquish its authority over this matter.

Thank you for the opportunity to testify on this bill.