

The House of Representatives
The Twenty-Fifth Legislature
Regular Session of 2009

Committee on Labor & Public Employment

Rep. Karl Rhoads, Chair

Rep. Kyle T. Yamashita, Vice Chair

DATE: Friday, February 13, 2009
TIME: 8:30 a.m.
PLACE: House Conference Room 309
State Capitol
415 South Beretania Street

**TESTIMONY OF THE UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,
AFL-CIO ON H.B. 1719 RELATING TO PUBLIC EMPLOYEES**

My name is Dayton M. Nakanelua, and I am the state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). As indicated in earlier testimony UPW represents more than 11,000 state and county employees in bargaining units 1 and 10 and approximately 3,000 retirees. UPW opposes House Bill No. 1719 which shifts the entire cost of providing health care to those employees who retire after July 1, 2009 before age 65 i.e., the medicare retirement age, under sections 87A-33, 87A-33.5, 87A-35, and 87A-36, Hawaii Revised Statutes (HRS). The measure eliminates state and county contributions to employees who retire after July 1, 2009 if they are not medicare eligible, and effectively requires them to pay for the entire cost of health benefit premiums prior to retirement age.

As you know, under Section 89-9 (e), HRS, the amount of contributions which State and counties are required to make under Sections 87A-32 through 87A-37, HRS, toward the payment of costs for health benefit plans is a mandatory subject of collective bargaining. The right to engage in collective bargaining is protected under Article XIII, Section 2 of the State Constitution for public employees. Where the legislature seeks to impose by statute the substantive terms of what should be negotiable constitutes a violation of the employee's right to engage in collective bargaining. See United Public Workers, AFSCME, Local 646, AFL-CIO v. Yogi, 101 Hawai'i 46, 62 P.3d 189 (2002). This measure interferes with the process of collective bargaining over fringe benefit costs and contributions which are core subjects of collective bargaining.

Since its adoption in 1970, Hawaii's public sector collective bargaining law mandates joint decision making as the modern way of administering government. As our Supreme Court held in Bd. of Education v. Haw. Pub. Emp. Rels. Bd., 56 Haw. 85, 528 P.2d 809 (1974):

The need for good faith bargaining or negotiations is fundamental in bringing to fruition the legislatively declared policy "to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of Government. (Emphasis added).

56 Haw. at 87, 528 P.2d at 811. As you know, during a period of economic recession the possibility of layoffs become apparent, and job security is a paramount concern for employees. One of the ways to reduce the number of layoffs is to encourage employees to retire early. However, measures like this one will create a disincentive for those who might otherwise be willing to apply for early retirement to save the jobs of others.

Finally, let me note that many union members these days express concern about why Democrats in Hawaii seem to be working in an opposite direction from the Obama administration which is committed to reducing health care costs by other means. This measure is more akin to what one might expect from the Bush administration. Perhaps this committee will help us assure our membership that voting for change makes a difference in America. Increasing the cost of survival does nothing to stimulate economic activity necessary for recovery. For all of the foregoing reasons we urge you not to pass this and other regressive measures relating to health care.