

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: Tuesday, February 17, 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. 1726 RELATING TO THE HEALTH FUND**

My name is Dayton M. Nakanelua, and I am the state director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW currently represents approximately 8,700 blue collar, non-supervisory employees and 2,800 institutional, health, and correctional workers in the State of Hawaii and the various counties. We also represent approximately 3,000 retired members currently receiving benefits under chapter 87A. The UPW opposes House Bill No. 1726 which eliminates the group life insurance benefit program under the health fund as we know it, shifts the entire cost of a contracted insurance plan to public employees, and eliminates the right to negotiate over group life insurance benefits under chapter 89.

Public employers and the union have for many years negotiated over group life insurance for bargaining unit 1 and

10 employees. The cost of providing insurance coverage to employees has not materially changed over the years. As the 1985 unit 1 agreement indicates the cost to employers of paying group life insurance was \$2.25 for each employee per month. See attachment 1 at page 126. Taking into account increases in the cost of living in Hawaii since 1985, providing for group life insurance today is not costing much higher. Effective July 1, 2008 the employers pays \$4.12 per month for each employee under the current collective bargaining agreement. See attachment 2, at page 136, see Section D.6. The per employee cost is so low that employers have agreed to pay 100% of the entire premium cost. Id.

We do not agree with the proponents of this measure who wish to eliminate employer paid group life insurance coverage for bargaining unit employees in order to replenish "the general fund" of the state. See Section 2 f of the bill. It is unlikely that eliminating group life insurance for public employees will substantially improve the State's fiscal situation. Moreover, courts have long recognized that insurance benefits constitute a mandatory subject of bargaining. As stated in Posadas De Puerto Rico Associates, Inc. v. N.L.R.B., 243 F.3d 87, 91 (1st Cir. 2001):

We have long held that an insurance benefit is a mandatory subject of bargaining and that unilateral actions regarding such subjects are proscribed by the Act. Allied Chem. & Alkali Workers of Am. v. Pittsburgh Plate Glass Co., 404 U.S. 157, 159, 92 S.Ct. 383, 30 L.Ed.2d 341 (1971) (citing W.W. Cross & Co. v. NLRB, 174 F.2d 875, 878 (1st Cir. 1949)). Insurance benefits have been typically regarded as mandatory subjects of bargaining because they provide "direct and immediate economic benefits from the employment relationship," and because they "provide a financial cushion in the event of illness or injury ... at less cost than such a cushion could be obtained

through contracts or insurance negotiated individually.” (Emphasis added).

243 F.3d at 91. Unilaterally changing employer sponsored life insurance coverage even for future retirees is unlawful. See Mississippi Power Co. v. N.L.R.B., 284 F.3d 605 (5th Cir. 2002). For the foregoing reasons, we respectfully request that you retain the existing contractual, statutory, and constitutional right of public employees to negotiate over group life insurance benefits.