

HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
Minutes of the Board of Trustees  
Tuesday, February 11, 2003

TRUSTEES PRESENT

Ms. Audrey Hidano, Vice-Chairperson	Mr. Neal Miyahira
Ms. Joan Lewis, Secretary-Treasurer (Arrived 9:13 am)	Mr. Will Miyake (Left 1:50 pm)
Mr. Bob Awana (Left 12:25 pm)	Mr. Dayton Nakanelua
Mr. Gerald Machida	Mr. John Radcliffe (Left 2:15 pm)
Ms. Kathryn Matayoshi (Left 12:06 p.m.)	Mr. Davis Yogi (Left 9:50 am, Returned 11:20 am)

TRUSTEES ABSENT: None

ATTORNEY

Mr. Brian Aburano, Deputy Attorney General

EUTF STAFF

Mr. H. Mark Fukuhara, Administrator	Mr. John Garner, Consultant
Ms. Maria Quartero	Ms. Gerti Reagan, Consultant
Mr. Leslie Ozawa	Ms. Donna Tonaki
Ms. Kathleen Shiroma	

GUESTS

Ms. Karen Tom, DHRD  
Mr. Stanley Shiraki, B&F

OTHERS PRESENT

Ms. Nani Crowell, HSTA MBC	Mr. Maurice Morita, HSTA
Ms. Alana Deppe-Mariota, Kaiser Permanente	Mr. Michael Moss, HMSA
Ms. Monica Engle, VSP	Ms. Jan Munemitsu, DOH
Mr. Melvin Higa, Public	Ms. Karen Muronaka, HSRTA
Mr. Charles Khim, Public	Mr. Rod Tam, HMSA
Ms. Ruth Kim, HSRTA	Ms. Lori Taniguchi, Royal State
Ms. Doreen Kuroda, HRD	Mr. George Yamamoto, HGEA-Retirees

I. CALL TO ORDER

The meeting of the Board of Trustees was called to order at 9:04 a.m. by Trustee Audrey Hidano, Vice-Chairperson, in Conference Room 405, Leiopapa A Kamehameha Building, 235 South Beretania Street, Honolulu, Hawaii, on Tuesday, February 11, 2003.

II. APPROVAL OF MINUTES: None

Consensus by Trustees to take agenda item V.A.1. Adjustment to Biennium Budget for FY04-05 out of order.

V.A.1. Adjustments to biennium budget for FY04-05 (see handout).

Mr. Fukuhara introduced Mr. Stanley Shiraki from Budget and Finance to explain Budget and Finance's authority to make adjustments to the biennium budget. Mr. Shiraki stated that under

HRS Section 26-8, “[t]he Department of Budget and Finance shall undertake the preparation and execution of the executive budget of the state government”, and that this is Budget and Finance’s role to the governor. He added that under HRS Section 37-40, trust funds may make expenditures without appropriation or allotment - “[e]xcept as to administrative expenditures...”. He added that HRS Section 87A-31(b) says that “[t]he fund, including any earnings on investments, and rate credits or reimbursements from any carrier or self-insured plan and any earning or interest derived therefrom, may be used to stabilize health and other benefit plan rates; provided that the approval of the governor and the legislature shall be necessary to fund administrative and other expenses necessary to effectuate these purposes”. In response to Trustee Radcliffe’s question if he is the governor, Mr. Shiraki stated that Budget and Finance advises the governor for all departments. Discussion held by Trustees on the autonomy of the Trust Fund and the biennium budget for FY04-05. Trustees Radcliffe and Miyake expressed concern that the EUTF should have autonomy.

#### PUBLIC COMMENT

Mr. Khim commented that Section 7 of Act 88 provides that the \$300,000 appropriated by the Legislature is the only money for which Budget and Finance has the authority to make adjustments. All other money from employees are not from legislative appropriation. He agreed with Trustee Miyake that the Trust Fund has autonomous use of money subject to oversight by the Governor and the Legislature. It is like the administrative costs borne by the ERS not to be controlled by Budget and Finance, Governor or the Legislature. It is only for the approval process to approve or disapprove and no power to change the budget.

### III. HFIMS Configuration

Discussion held by Trustees and staff on the HFIMS configuration contract with e-World. Further discussion held by Trustees about further delay of this contract and concerns about a Third Party Administrator (TPA).

MOTION was made to approve HFIMS configuration contract with e-World. (Matayoshi/Awana) After discussion, the motion passed. (Employer Trustees-5/Employee-Beneficiary Trustees-4, Miyake-Abstain)

### IV. COMMITTEE REPORTS

A. ADMINISTRATIVE COMMITTEE: None

B. RULES COMMITTEE

Chair Yogi introduced Ms. Karen Tom, former staff of EUTF, to give an overview on the Administrative Rules. Trustee Yogi left at 9:50 a.m.

Ms. Tom gave an overview on the Administrative Rules, summarizing the significant parts of Rules 1-5. Mr. Aburano also explained certain parts of the Administrative Rules, particularly those Rules pertaining to trustee voting. During the overview, there were

discussions among the Trustees and public comments were received regarding various matters including: (a) Rule 1.02's definition of part-time, temporary, and seasonal workers and whether the Trust Fund could or should provide health benefits to such workers; and (b) the coverage of domestic partners under the Administrative Rules.

The Trustees also discussed whether another Trustee should be added to the Rules Committee. By consensus, the Trustees decided to add Trustee Nakanelua to the Rules Committee.

Trustee Yogi returned at 11:20 a.m. Chair Yogi reported that the revised Administrative Rules were sent to public employers and employee organizations for consultation and are based on written comments from those organizations as well as public comments received at Rules Committee meetings. He stated that all comments were incorporated in the Administrative Rules or responded to in a timely manner.

#### PUBLIC COMMENTS

Mr. Charles Khim commented that it is illegal to adopt proposed rules and then go out for consultation.

Mr. Melvin Higa read his letter dated October 25, 2003 regarding Rule 2 being deficient (see handout).

MOTION was made to adopt Rule 2.00 of the Administrative Rules. (Yogi/Matayoshi) Trustee Matayoshi left at 12:06 p.m. After discussion, the motion unanimously passed. (Employer Trustees 3-Awana, Hidano, Yogi/Employee-Beneficiary Trustees 5)

Recess: 12:25 p.m. to 1:22 p.m.

Chair Yogi continued to give an overview on the rest of the Administrative Rules. Due to the fact that Trustee Radcliffe was leaving, there was a consensus by the Trustees to e-mail/fax the Administrative Rules to them for further review and comments before they voted on adopting those Rules.

Trustee Radcliffe left at 2:15 p.m.

#### C. BENEFITS COMMITTEE (Deferred)

1. Approval of RFP issues

#### V. OTHER REPORTS

##### A. ADMINISTRATOR

Mr. Fukuhara reported on:

1. Adjustments to biennium budget for FY04-05 (taken out of order).
2. FY03 Expenditure Report as of 11/30/02 (see handout).  
  
Discussion held by Trustees, staff and public on the expenditure report.
3. EUTF/PEHF Transition
  - a. State Office Lease for Budget and Finance (see handout).
  - b. EUTF Office Space (see handout).  
Discussion by Trustees, staff, and public on the office lease, space, and PEHF staff.
4. Communication Plan (Deferred)
5. Annual Report (Deferred)

B. DEPUTY ATTORNEY GENERAL

1. Mr. Aburano discussed the provisions of Hawaii's collective bargaining statutes (HRS Chapter 89) that described the procedures that would be followed if there were an impasse in negotiations. He noted that if an impasse was not settled by these procedures, the parties were left to pursue any remedies that weren't prohibited by agreement, HRS Chapter 89, or other applicable law. He described the conditions under which a legal strike might occur. Mr. Aburano noted that HRS Section 89-11(g) provided that employees could not legally strike if the only issue was the amount of public employer contributions to the health fund.

Mr. Aburano noted that case law from other jurisdictions indicated that one of three outcomes have occurred when public employers and public employee unions have exhausted collective bargaining procedures without an agreement. The outcomes were: (1) the legislature settled the dispute; (2) the status quo was maintained until a new agreement was reached; or (3) the employer was allowed to unilaterally change the terms and conditions of employment provided it had bargained in good faith, exhausted collective bargaining procedures, and imposed only terms and conditions that it had offered in the collective bargaining negotiations – sometimes called the last best offer. Mr. Aburano said that it appeared unlikely that the Hawaii legislature would step in to resolve the present impasse. For various reasons, he felt that maintaining the status quo was the most likely outcome. He clarified that this meant that the public employers would maintain the existing level of contributions until a new agreement was reached.

Mr. Aburano said that it was unclear as to whether and when the public employers might legally be able to cut-off employer contributions for health

benefits in the event of a strike. He noted that previously, the State had cut-off contributions on the theory that the strikers were on unauthorized leave without pay. He discussed when any cut-off of public employer contributions would begin to affect the Trust Fund's employee-beneficiaries under the Trust Fund's Administrative Rules.

Discussion by Trustees on what will happen if there is an impasse. Trustee Lewis stated concern that the employee would be held hostage and not reassured that explanations are clear. It is possible that public employees will end up paying the full cost of premiums. She is still not comforted that putting together the benefits package and rolling it out is going to insure that the beneficiaries are really going to pay an affordable rate if the collective bargaining contracts are not ratified. Further discussion by Trustees, staff, and public on an impasse. Trustee Lewis asked Mr. Aburano if the report is official. Mr. Aburano responded that it is an unofficial opinion by him. Trustee Lewis requested for an official opinion. Mr. Aburano will submit an official opinion that will be provided next week.

2. Part-time, temporary, and seasonal or casual employees (Deferred)

C. BENEFITS CONSULTANT

Mr. Garner gave a report on the Garner Consulting News Bulletins for the months of November 2002, December 2002 and January 2003 (see handouts). Discussion held by Trustees and consultant on payment for prescription drugs and coverage for active military personnel.

VI. UNFINISHED BUSINESS

- A. Average Family Size – Comparison with State Auditor Report (see handout).  
Mr. Fukuhara reported that in October 2002, the Trustees noted a difference on the average family size between the legislative auditor's and Trust Fund benefits consultant's reports. He said that we did not show the family size in tiers. Mr. Garner gave an overview on the family size comparisons. He reported that there was no inconsistency in the data as reported in the legislative auditor's and his company's reports. Discussion held by Trustees, consultant, and public on the family size comparisons. Trustee Miyake left at 1:50 p.m.
- B. Draft letter to Insurance Commissioner Re: Mutual Benefit Society.  
Mr. Fukuhara requested Board approval to send a proposed letter to the Insurance Commissioner to see if he disagreed with the opinion that the Trust Fund was not a mutual benefit society under the State's insurance laws.

MOTION was made to approve to send the proposed letter to the Insurance Commissioner. (Yogi/Nakanelua) After discussion by Trustees and staff, motion unanimously passed. Employer Trustees-3/Employee-Beneficiary Trustees-4)

VII. NEW BUSINESS (Deferred)

- A. Election of New Chair or Interim Chair

VIII. COMMUNICATIONS FROM THE PUBLIC AND INPUT FROM ATTENDEES

IX. FUTURE AGENDA ITEMS AND NEXT MEETING DATE

- A. Board meetings are scheduled for all day on February 19, 26, 2003;  
March 6, 10, 13, 14, 18, 2003.  
B. Administrative Committee meeting is scheduled for February 20, 2003.

X. EXECUTIVE SESSION (Deferred)

- A. Evaluation of RFP proposals with board's benefits consultant and consultation with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities regarding the RFP proposals.

XI. ADJOURNMENT

Due to lack of quorum, the meeting was adjourned at 3:12 p.m.

Respectfully submitted,

/s/

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Bob Awana, Secretary-Treasurer

APPROVED on November 19, 2003.

Documents Distributed:

1. Administrative Rules-Proposed Final Draft w/Additional Revisions version 10/3/92 (25 Pages)
2. Letter from Tom Ramsey dated 10/16/02. (1 Page)
3. Letter from Eldon L. Wegner dated 10/16/02. (1 Page)
4. Letter from Patricia Hamamoto dated 10/17/02. (1 Page)
5. Letter from Melvin Higa dated 10/15/02 regarding rules. (5 pages)
6. Letter from Melvin Higa dated 10/18/02 regarding rules. (5 pages)
7. Letter from Melvin Higa dated 10/23/02 regarding rules. (1 page)
8. Letter from Melvin Higa dated 10/23/02 regarding rules. (2 pages)
9. Letter from Melvin Higa dated 10/25/02 regarding rules. (9 pages)
10. Letter from Charles Khim dated 10/25/02 regarding rules. (5 pages)
11. Letter from Charles Khim dated 2/4/03 regarding rules. (4 pages)

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12. Letter from Laborers Local 368 dated 11/1/02. (6 Pages)
13. Response Letter from Chief of Staff to Laborers dated 11/15/02. (1 Page)
14. Letter from Solomon W.H. Wong dated 12/18/02. (4 Pages)
15. Response Letter from Governor Lingle to Solomon Wong dated 1/6/03. (1 Page)
16. List of Requests for Changes to RFP dated 10/17/02. (7 Pages)
17. Letter from Trustee Miyake dated 11/20/02. (8 Pages)
18. Letter and Information from HMA Inc. dated 11/22/02. (11 Pages)
19. Response Letter from Administrator to HMA Inc. dated 11/26/02. (1 Page)
20. HEUHBTF FY 03 Expenditures dated 2/5/03. (1 Page)
21. HEUHBTF Budget Request-Final FY2004 & FY2005 dated 12/16/02. (1 Page)
22. Memo from DAGS to BF Re: State Office Leases for BF dated 8/19/02. (2 Pages)
23. EUTF Office Space dated 2/5/03. (2 Page)
24. Memo from ATG to PEHF Chair Re: Recovery of Excess Porting dated 1/30/03. (13 Pages)
25. EUTF Communication Plan dated 11/4/02. (4 Pages)
26. EUTF Annual Report FY01-02 dated 12/2002. (5 Pages)
27. Letter from Trustee Miyake dated 12/18/02 regarding Annual Report. (2 Pages)
28. Response from Administrator to Trustee Miyake dated 12/24/02. (1 Page)
29. Letter from Trustee Miyake dated 12/26/02 regarding Annual Report. (1 Page)
30. Garner Bulletin for 11/2002. (2 Pages)
33. Garner Bulletin for 12/2002. (2 Pages)
34. Garner Bulletin for 1/2003. (2 Pages)
35. Demographic Data Family Size Comparisons dated 10/28/02. (1 Page)
36. Resignation Letter from Sam Callejo dated 12/2/02. (1 Page)
37. Appointment Letter to Bob Awana dated 12/13/02. (1 Page)
38. Appointment Letter to Dayton Nakanelua dated 1/24/03. (1 Page)
39. Appointment Letter to John Radcliffe dated 1/24/03. (1 Page)
40. Letter from Charles Khim dated 2/10/03 regarding rules. (2 Pages)
41. Letter from Melvin Higa dated 2/11/03 regarding request for changes to RFP. (7 Pages)