
A BILL FOR AN ACT

RELATING TO LABOR.

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

1 SECTION 1. Section 89-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§89-9 Scope of negotiations; consultation.** (a) The
4 employer and the exclusive representative shall meet at
5 reasonable times, including meetings sufficiently in advance of
6 the February 1 impasse date under section 89-11, and shall
7 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 or a
10 voluntary employees' beneficiary association trust to the extent
11 allowed in subsection (e), and other terms and conditions of
12 employment that are subject to collective bargaining and that
13 are to be embodied in a written agreement as specified in
14 section 89-10, but the obligation [~~does~~] shall not compel either
15 party to agree to a proposal or make a concession; provided that
16 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 (b) The employer or the exclusive representative desiring
4 to initiate negotiations shall notify the other party in
5 writing, setting forth the time and place of the meeting desired
6 and the nature of the business to be discussed, sufficiently in
7 advance of the meeting.

8 (c) The employer and the exclusive representative may not
9 agree to any proposal in negotiations that would be inconsistent
10 with the merit principle or the principle of equal pay for equal
11 work pursuant to section 76-1 or which would interfere with the
12 rights and obligations of a public employer to:

13 (1) Direct employees;

14 (2) Determine qualifications, standards for work, and the
15 nature and contents of examination;

16 (3) Hire, promote, transfer, assign, and retain employees
17 in position;

18 (4) Suspend, demote, discharge, or take other disciplinary
19 action against employees for proper cause;

20 (5) Relieve an employee from duties because of lack of
21 work or other legitimate reason;



1 (6) Maintain efficiency and productivity, including
2 maximizing the use of advanced technology, in
3 government operations;

4 (7) Determine methods, means, and personnel by which the
5 employer's operations are to be conducted; and

6 (8) Take such actions as may be necessary to carry out the
7 mission of the employer in case of emergencies;

8 provided that this subsection does not preclude negotiations
9 conducted through collective bargaining over the procedures for
10 and effects of assignments, transfers, promotions, and
11 demotions, layoffs, terminations, discharges, or other
12 disciplinary actions of employers, as permitted under subsection
13 (a) as a permissive subject of bargaining. Violations of the
14 procedures and criteria so negotiated may be subject to the
15 grievance procedures contained in the written agreement as
16 specified in section 89-10.

17 ~~(e)~~ (d) Except as otherwise provided in this chapter,
18 all matters affecting employee relations, including those that
19 are, or may be, the subject of a rule adopted by the employer or
20 any director, shall be subject to consultation with the
21 exclusive representatives of the employees concerned. The
22 employer shall make every reasonable effort to consult with



1 exclusive representatives and consider their input, along with
2 the input of other affected parties, prior to effecting changes
3 in any major policy affecting employee relations.

4 ~~[(d)]~~ (e) Excluded from the subjects of negotiations are
5 matters of classification, reclassification, benefits of but not
6 contributions to the Hawaii employer-union health benefits trust
7 fund or a voluntary employees' beneficiary association trust;
8 recruitment; examination; initial pricing; and retirement
9 benefits except as provided in section 88-8(h). ~~[The employer~~
10 ~~and the exclusive representative shall not agree to any proposal~~
11 ~~in negotiations that would be inconsistent with the merit~~
12 ~~principle or the principle of equal pay for equal work pursuant~~
13 ~~to section 76-1 or that would interfere with the rights and~~
14 ~~obligations of a public employer to:~~

15 ~~(1) Direct employees;~~

16 ~~(2) Determine qualifications, standards for work, and the~~
17 ~~nature and contents of examinations;~~

18 ~~(3) Hire, promote, transfer, assign, and retain employees~~
19 ~~in positions;~~

20 ~~(4) Suspend, demote, discharge, or take other disciplinary~~
21 ~~action against employees for proper cause;~~



1 ~~(5) Relieve an employee from duties because of lack of work~~
2 ~~or other legitimate reason;~~

3 ~~(6) Maintain efficiency and productivity, including~~
4 ~~maximizing the use of advanced technology, in~~
5 ~~government operations;~~

6 ~~(7) Determine methods, means, and personnel by which the~~
7 ~~employer's operations are to be conducted; and~~

8 ~~(8) Take such actions as may be necessary to carry out the~~
9 ~~missions of the employer in cases of emergencies.~~

10 ~~The employer and the exclusive representative may negotiate~~
11 ~~procedures governing the promotion and transfer of employees to~~
12 ~~positions within a bargaining unit; the suspension, demotion,~~
13 ~~discharge, or other disciplinary actions taken against employees~~
14 ~~within the bargaining unit; and the layoff of employees within~~
15 ~~the bargaining unit. Violations of the procedures so negotiated~~
16 ~~may be subject to the grievance procedure in the collective~~
17 ~~bargaining agreement.~~

18 ~~(e)]~~ (f) Negotiations relating to contributions to the
19 Hawaii employer-union health benefits trust fund or a voluntary
20 employees' beneficiary association trust shall be for the
21 purpose of agreeing upon the amounts that the State and counties
22 shall contribute under sections 87A-32 through 87A-37, toward



1 the payment of the costs for a health benefits plan, as defined
2 in section 87A-1 and group life insurance benefits, and the
3 parties shall not be bound by the amounts contributed under
4 prior agreements; provided that section 89-11 for the resolution
5 of disputes by way of arbitration shall not be available to
6 resolve impasses or disputes relating to the amounts the State
7 and counties shall contribute to the Hawaii employer-union
8 health benefits trust fund or a voluntary employees' beneficiary
9 association trust established under chapter 87D.

10 [~~f~~] (g) The repricing of classes within an appropriate
11 bargaining unit may be negotiated as follows:

12 (1) At the request of the exclusive representative and at
13 times allowed under the collective bargaining
14 agreement, the employer shall negotiate the repricing
15 of classes within the bargaining unit. The negotiated
16 repricing actions that constitute cost items shall be
17 subject to the requirements in section 89-10~~(-)~~; and

18 (2) If repricing has not been negotiated under paragraph
19 (1), the employer of each jurisdiction shall ensure
20 establishment of procedures to periodically review, at
21 least once in five years, unless otherwise agreed to by
22 the parties, the repricing of classes within the



1 bargaining unit. The repricing of classes based on the
2 results of the periodic review shall be at the
3 discretion of the employer. Any appropriations
4 required to implement the repricing actions that are
5 made at the employer's discretion shall not be
6 construed as cost items."

7 SECTION 2. Section 89-19, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§89-19 Chapter takes precedence, when.** This chapter
10 shall take precedence over all conflicting statutes or acts
11 concerning this subject matter and shall preempt and supercede
12 all contrary local ordinances, executive orders, legislation, or
13 rules adopted by the State, a county, or any department or
14 agency thereof, including the departments of human resources
15 development or of personnel services or the civil service
16 commission."

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

19 SECTION 4. This Act shall take on July 1, 2050.



HB2951
HD1

Report Title:

Public Employees; Collective Bargaining

Description:

Allows a public employer to negotiate procedures for and effects of promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions. (HB2951 HD1)

