

JAN 25 2006

A BILL FOR AN ACT

RELATING TO THE UNIFORM ARBITRATION ACT.

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

1 SECTION 1. The purpose of this Act is to exempt grievance
2 arbitrations between the public employers and the public
3 employees' exclusive representatives under chapter 89, from
4 chapter 658A, Hawaii Revised Statutes (the Uniform Arbitration
5 Act), except where judicial intervention is currently allowed.
6 It is the legislature's belief that the grievance arbitration
7 procedures between the public employers and the exclusive
8 representatives under chapter 89 should be negotiated rather
9 than statutorily imposed upon the parties. This Act will
10 restore the parties' right to negotiate their own grievance
11 arbitration procedures.

12 SECTION 2. Section 658A-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§658A-3 When chapter applies.** (a) Except as provided in
15 subsection (c), this chapter governs an agreement to arbitrate
16 made on or after July 1, 2002.

17 (b) This chapter governs an agreement to arbitrate made
18 before July 1, 2002, if all the parties to the agreement or to

1 the arbitration proceeding so agree in a record. If the parties
2 to the agreement or to the arbitration do not so agree in a
3 record, an agreement to arbitrate that is made before July 1,
4 2002, shall be governed by the law specified in the agreement to
5 arbitrate or, if none is specified, by the state law in effect
6 on the date when the arbitration began or on June 30, 2002,
7 whichever first occurred.

8 (c) After June 30, 2004, this chapter governs an agreement
9 to arbitrate whenever made.

10 (d) Notwithstanding any provision to the contrary, except
11 for sections 658A-22, 658A-23, 658A-24, 658A-25(a), and 658A-28,
12 this chapter shall not apply to grievance arbitrations
13 authorized by collective bargaining agreements between public
14 employers and exclusive representatives under chapter 89."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

JUSTIFICATION SHEET

SB. NO 2336

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO THE UNIFORM ARBITRATION ACT.

PURPOSE: To exempt grievance arbitrations between the public employers and the public employees' exclusive representatives under chapter 89, from the Uniform Arbitration Act, Chapter 658A, Hawaii Revised Statutes (HRS), except where judicial intervention is currently allowed.

MEANS: Amend section 658A-3, Hawaii Revised Statutes.

JUSTIFICATION: Currently, the public employers and the exclusive representatives are required to follow the procedures prescribed in the Uniform Arbitration Act. These procedures have converted grievance arbitrations into court-like proceedings. As a result, grievance arbitrations have become more litigious, time-consuming, and expensive. These are consequences that neither the public employers nor the exclusive representatives want to see in grievance arbitrations. The parties believe that grievance arbitration procedures should be subject to negotiations and not statutorily imposed upon the parties. Chapter 658A deprived both the public employers and the labor unions of the right to negotiate these matters. This bill seeks to restore the pre-chapter 658A status and return the right to negotiate grievance arbitration procedures back to the appropriate parties, namely, the public employers and the unions.

Impact on the public: None.

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Impact on the departments and other agencies: The departments and agencies would be assured that the grievance arbitration procedures negotiated with the unions would be the procedures applied to grievance arbitrations.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: All public employers, including the Board of Education, the Board of Regents, the counties, the Hawaii Health Systems Corporation, and the Judiciary.

EFFECTIVE DATE: Upon approval.