

JAN 25 2006

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING FOR EMPLOYEES IN LAW
ENFORCEMENT AND EMERGENCY HEALTH AND SAFETY OCCUPATIONS.

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

1 SECTION 1. In the aftermath of September 11, 2001, the
2 needs to recruit, train, and retain law enforcement and
3 emergency health and safety personnel have become increasingly
4 important. The more experienced and better trained this law
5 enforcement and emergency health and safety personnel are, the
6 more secure and safer Hawaii's citizenry will be.

7 Currently, there are classes of work that perform law
8 enforcement and emergency health and safety related activities
9 that are not included in bargaining units 9 through 12; for
10 examples, deputy sheriffs, harbor enforcement officers,
11 conservation and resources enforcement officers, 911 emergency
12 response operators, emergency medical technicians, security
13 officers, and the civil defense emergency operation watch team.
14 Unfortunately, for no particular discernible reason, these
15 classes of work are embedded in bargaining units that also
16 include non-law enforcement and non-health and safety personnel.
17 As a result, these employees in law enforcement and emergency

SB. NO. 2369

1 health and safety classifications are not getting the
2 recognition at the bargaining table that they deserve. Their
3 compensation worth is diffused among the other members of their
4 heterogeneous bargaining unit. This makes it difficult for
5 employers to recruit and retain individuals into these "first
6 responder" occupations. To make it easier for employers to
7 recruit and retain first responders, this Act seeks to put law
8 enforcement and emergency health and safety personnel, who are
9 not in bargaining units (9) through (12), into a new homogeneous
10 bargaining unit created just for them.

11 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) All employees throughout the State within any of the
14 following categories shall constitute an appropriate bargaining
15 unit:

- 16 (1) Nonsupervisory employees in blue collar positions;
- 17 (2) Supervisory employees in blue collar positions;
- 18 (3) Nonsupervisory employees in white collar positions;
- 19 (4) Supervisory employees in white collar positions;
- 20 (5) Teachers and other personnel of the department of
21 education under the same pay schedule, including part-
22 time employees working less than twenty hours a week
23 who are equal to one-half of a full-time equivalent;

SB. NO. 2369

- 1 (6) Educational officers and other personnel of the
- 2 department of education under the same pay schedule;
- 3 (7) Faculty of the University of Hawaii and the community
- 4 college system;
- 5 (8) Personnel of the University of Hawaii and the
- 6 community college system, other than faculty;
- 7 (9) Registered professional nurses;
- 8 (10) Institutional, health, and correctional workers;
- 9 (11) Firefighters;
- 10 (12) Police officers; [~~and~~]
- 11 (13) Professional and scientific employees, who cannot be
- 12 included in any of the other bargaining units[-]; and
- 13 (14) Law enforcement and emergency health and safety
- 14 personnel, who are not in bargaining units (9) through
- 15 (12)."

16 SECTION 3. Section 89-6, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

18 "(d) For the purpose of negotiating a collective bargaining
19 agreement, the public employer of an appropriate bargaining unit
20 shall mean the governor together with the following employers:

- 21 (1) For bargaining units (1), (2), (3), (4), (9), (10),
- 22 and (13), the governor shall have six votes and the
- 23 mayors, the chief justice, and the Hawaii health

SB. NO. 2369

1 systems corporation board shall each have one vote if
2 they have employees in the particular bargaining unit;

3 (2) For bargaining units (11) [~~and~~], (12), and (14), the
4 governor shall have four votes and the mayors shall
5 each have one vote;

6 (3) For bargaining units (5) and (6), the governor shall
7 have three votes, the board of education shall have
8 two votes, and the superintendent of education shall
9 have one vote;

10 (4) For bargaining units (7) and (8), the governor shall
11 have three votes, the board of regents of the
12 University of Hawaii shall have two votes, and the
13 president of the University of Hawaii shall have one
14 vote.

15 Any decision to be reached by the applicable employer group
16 shall be on the basis of simple majority, except when a
17 bargaining unit includes county employees from more than one
18 county. In such case, the simple majority shall include at
19 least one county."

20 SECTION 4. Section 89-11, Hawaii Revised Statutes, is
21 amended by amending subsection (e) to read as follows:

22 "(e) If an impasse exists between a public employer and the
23 exclusive representative of bargaining unit (2), supervisory

SB. NO. 2369

1 employees in blue collar positions; bargaining unit (3),
2 nonsupervisory employees in white collar positions; bargaining
3 unit (4), supervisory employees in white collar positions;
4 bargaining unit (6), educational officers and other personnel of
5 the department of education under the same salary schedule;
6 bargaining unit (8), personnel of the University of Hawaii and
7 the community college system, other than faculty; bargaining
8 unit (9), registered professional nurses; bargaining unit (10),
9 institutional, health, and correctional workers; bargaining unit
10 (11), firefighters; bargaining unit (12), police officers; ~~[or]~~
11 bargaining unit (13), professional and scientific employees~~[r]~~;
12 or bargaining unit (14), law enforcement and emergency health
13 and safety personnel, the board shall assist in the resolution
14 of the impasse as follows:

15 (1) Mediation. During the first twenty days after the
16 date of impasse, the board shall immediately appoint a
17 mediator, representative of the public from a list of
18 qualified persons maintained by the board, to assist
19 the parties in a voluntary resolution of the impasse.

20 (2) Arbitration. If the impasse continues twenty days
21 after the date of impasse, the board shall immediately
22 notify the employer and the exclusive representative
23 that the impasse shall be submitted to a three-member

SB. NO. 2369

1 arbitration panel who shall follow the arbitration
2 procedure provided herein.

3 (A) Arbitration panel. Two members of the
4 arbitration panel shall be selected by the
5 parties; one shall be selected by the employer
6 and one shall be selected by the exclusive
7 representative. The neutral third member of the
8 arbitration panel, who shall chair the
9 arbitration panel, shall be selected by mutual
10 agreement of the parties. In the event that the
11 parties fail to select the neutral third member
12 of the arbitration panel within thirty days from
13 the date of impasse, the board shall request the
14 American Arbitration Association, or its
15 successor in function, to furnish a list of five
16 qualified arbitrators from which the neutral
17 arbitrator shall be selected. Within five days
18 after receipt of such list, the parties shall
19 alternately strike names from the list until a
20 single name is left, who shall be immediately
21 appointed by the board as the neutral arbitrator
22 and chairperson of the arbitration panel.

SB. NO. 2369

1 (B) Final positions. Upon the selection and
2 appointment of the arbitration panel, each party
3 shall submit to the panel, in writing, with copy
4 to the other party, a final position which shall
5 include all provisions in any existing collective
6 bargaining agreement not being modified, all
7 provisions already agreed to in negotiations, and
8 all further provisions which each party is
9 proposing for inclusion in the final agreement.

10 (C) Arbitration hearing. Within one hundred twenty
11 days of its appointment, the arbitration panel
12 shall commence a hearing at which time the
13 parties may submit either in writing or through
14 oral testimony, all information or data
15 supporting their respective final positions. The
16 arbitrator, or the chairperson of the arbitration
17 panel together with the other two members, are
18 encouraged to assist the parties in a voluntary
19 resolution of the impasse through mediation, to
20 the extent practicable throughout the entire
21 arbitration period until the date the panel is
22 required to issue its arbitration decision.

SB. NO. 2369

1 (D) Arbitration decision. Within thirty days after
2 the conclusion of the hearing, a majority of the
3 arbitration panel shall reach a decision pursuant
4 to subsection (f) on all provisions that each
5 party proposed in its respective final position
6 for inclusion in the final agreement and transmit
7 a preliminary draft of its decision to the
8 parties. The parties shall review the
9 preliminary draft for completeness, technical
10 correctness, and clarity and may mutually submit
11 to the panel any desired changes or adjustments
12 that shall be incorporated in the final draft of
13 its decision. Within fifteen days after the
14 transmittal of the preliminary draft, a majority
15 of the arbitration panel shall issue the
16 arbitration decision."

17 SECTION 5. The employers and the affected exclusive
18 representatives shall meet and consult, and submit to the
19 legislature, twenty days prior to the regular session of 2007, a
20 report identifying all those workers and corresponding classes
21 of work that would meet the definition of and be migrated over
22 to this newly created bargaining unit (14), law enforcement and
23 emergency health and safety personnel. The report to the

SB. NO. 2369

1 legislature shall include any and all statutory amendments
2 required to formalize the creation, establishment, and migration
3 of employees to this new bargaining unit without loss of accrued
4 benefits, seniority, and wages.

5 SECTION 6. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 Section 7. This Act shall take effect upon its approval;
8 provided that the transfer of law enforcement and emergency
9 health and safety personnel into the newly established
10 bargaining unit (14), shall take effect no later than June 30,
11 2007.

12
13 INTRODUCED BY: 

14 BY REQUEST

JUSTIFICATION SHEET

SB. NO. 2369

DEPARTMENT: Office of the Governor, Office of Collective Bargaining

TITLE: A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING FOR EMPLOYEES IN LAW ENFORCEMENT AND EMERGENCY HEALTH AND SAFETY OCCUPATIONS.

PURPOSE: To create a new homogeneous bargaining unit for law enforcement and emergency health and safety personnel, except those in bargaining units (9) through (12).

MEANS: Amend sections 89-6(a) and (d) and 89-11(e), Hawaii Revised Statutes.

JUSTIFICATION: This bill will create a new homogeneous bargaining unit for those law enforcement and emergency health and safety personnel who are not in bargaining units (9) through (12); whose professions help public safety and health to avoid and/or remove any imminent or present danger to the public safety and health; reduce risk of injury, harm and loss of life.

There is in existence a Law Enforcement Coalition and a homogeneous group of associated members to this coalition. And to name a few of those comprised in this group are the civil defense, deputy sheriffs, and conservation and resources enforcement officers.

Currently, these law enforcement and emergency health and safety personnel are imbedded in bargaining units that also include non-law enforcement and non-health and safety personnel. For example, state deputy sheriffs are members of bargaining units 3 and 4, which are predominantly white collar, clerical workers. As another example, police department dispatchers and state conservation and resources enforcement officers are also part of bargaining unit 3.

As a result of this mixture, these law enforcement and emergency health and safety individuals are not getting the recognition at the bargaining table that they deserve. Their compensation worth is diffused among the other members of their heterogeneous bargaining unit. This makes it difficult for employers to recruit and retain individuals into these "first responder" positions.

When bargaining units were first established, the attempt was made to have homogeneity as much as possible. Consequently, we have homogeneous bargaining units for firefighters, police officers, and nurses. However, this objective was lost most obviously with the establishment of bargaining units 3 and 13, which are heterogeneous. This gave rise to discontentment among small groups of employees who were commingled with other much larger classes of employees. The net effect was a disenfranchisement of the smaller groups.

By creating a separate homogeneous bargaining unit for these law enforcement and emergency health and safety personnel, we can foster a more caring and responsive labor organization and more appropriately recognize these individuals for their contributions to our protection, our health, and our safety.

Impact on the public: Under this bill, the public will receive better law enforcement and emergency health and safety services. If this bill becomes law, the State will be able to negotiate wages, hours, and conditions of employment for law enforcement and emergency health and safety personnel in their own separate homogeneous bargaining unit. This, in turn, will enable the State to focus on the problems and issues unique

to this group of "first responders." If the State is successful in addressing these problems and issues, the public will receive better services.

Impact on the departments and other agencies: None. These employees would still remain in collective bargaining and their contract would still be subject to final and binding interest arbitration. The only difference is that they would now be in a separate homogeneous bargaining unit.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: All departments and agencies, including the counties, that have law enforcement or emergency health and safety personnel who are not in bargaining units (9) through (12).

EFFECTIVE DATE: Upon approval, provided that the transfer of law enforcement and emergency health and safety personnel into the newly established bargaining unit (14), shall be no later than June 30, 2007.