
A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT.

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

1 SECTION 1. During the regular session of 2003, the
2 legislature passed and the governor vetoed S.B. No. 1426,
3 S.D. 1, relating to collective bargaining for substitute
4 teachers and part-time substitute teachers in the department of
5 education. The legislature finds that substitute teachers have
6 long been neglected in terms of collective bargaining rights.
7 Substitute teachers are a necessary and integral part of the
8 cadre of teachers. Although substitute teachers are usually
9 hired on a day-to-day basis, some fill in for regular teachers
10 on longer term assignments, which effectively results in putting
11 substitute teachers into full-time teaching positions for
12 indefinite periods.

13 The legislature finds that substitute teachers should be
14 conferred the right to bargaining collective regarding salaries,
15 benefits, and other working conditions.

16 This Act addresses the governor's reasons for the veto of
17 S.B. No. 1426, S.D. 1 (2003), which concerned issues of clarity
18 and expression of legislative intent.



1 The purpose of this Act is to permit substitute teachers,
2 including part-time substitute teachers, in the department of
3 education the option of joining an appropriate and existing
4 bargaining unit.

5 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) All employees throughout the State within any of the
9 following categories shall constitute an appropriate bargaining
10 unit:

- 11 (1) Nonsupervisory employees in blue collar positions;
- 12 (2) Supervisory employees in blue collar positions;
- 13 (3) Nonsupervisory employees in white collar positions;
- 14 (4) Supervisory employees in white collar positions;
- 15 (5) Teachers and other personnel of the department of
16 education under the same pay schedule, including part-
17 time employees working less than twenty hours a week
18 who are equal to one-half of a full-time equivalent;
- 19 (6) Educational officers and other personnel of the
20 department of education under the same pay schedule;
- 21 (7) Faculty of the University of Hawaii and the community
22 college system;



- 1 (8) Personnel of the University of Hawaii and the
- 2 community college system, other than faculty;
- 3 (9) Registered professional nurses;
- 4 (10) Institutional, health, and correctional workers;
- 5 (11) Firefighters;
- 6 (12) Police officers; [~~and~~]
- 7 (13) Professional and scientific employees, who cannot be
- 8 included in any of the other bargaining units[~~-~~]; and
- 9 (14) Substitute teachers of the department of education,
- 10 including part-time substitute teachers working less
- 11 than one-half of a full-time equivalent; provided that
- 12 they each have the option of joining an appropriate
- 13 and existing bargaining unit."

14 2. By amending subsection (d) to read:

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

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



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), the governor shall
4 have four votes and the mayors shall each have one
5 vote;

6 (3) For bargaining units (5) [~~and~~], (6), and (14), the
7 governor shall have three votes, the board of
8 education shall have two votes, and the superintendent
9 of education shall 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~~] that case, the simple majority shall include
19 at least one county."

20 3. By amending subsection (g) to read:



1 "(g) The following individuals shall not be included in
2 any appropriate bargaining unit or be entitled to coverage under
3 this chapter:

4 (1) Elected or appointed official;

5 (2) Member of any board or commission;

6 (3) Top-level managerial and administrative personnel,
7 including the department head, deputy or assistant to
8 a department head, administrative officer, director,
9 or chief of a state or county agency or major
10 division, and legal counsel;

11 (4) Secretary to top-level managerial and administrative
12 personnel under paragraph (3);

13 (5) Individual concerned with confidential matters
14 affecting employee-employer relations;

15 (6) Part-time employee working less than twenty hours per
16 week, except part-time employees included in
17 bargaining [~~unit~~] units (5) [~~+~~] and (14);

18 (7) Temporary employee of three months' duration or less;

19 (8) Employee of the executive office of the governor or a
20 household employee at Washington Place;

21 (9) Employee of the executive office of the lieutenant
22 governor;



- 1 (10) Employee of the executive office of the mayor;
- 2 (11) Staff of the legislative branch of the State;
- 3 (12) Staff of the legislative branches of the counties,
- 4 except employees of the clerks' offices of the
- 5 counties;
- 6 (13) Any commissioned and enlisted personnel of the Hawaii
- 7 national guard;
- 8 (14) Inmate, kokua, patient, ward, or student of a state
- 9 institution;
- 10 (15) Student help;
- 11 (16) Staff of the Hawaii labor relations board;
- 12 (17) Employee of the Hawaii national guard youth challenge
- 13 academy; or
- 14 (18) Employees of the office of elections."

15 SECTION 3. Section 89-11, Hawaii Revised Statutes, is
 16 amended by amending subsection (d) to read as follows:

17 "(d) If an impasse exists between a public employer and
 18 the exclusive bargaining representative of bargaining unit (1),
 19 nonsupervisory employees in blue collar positions; bargaining
 20 unit (5), teachers and other personnel of the department of
 21 education; [~~e~~] bargaining unit (7), faculty of the University
 22 of Hawaii and the community college system[~~7~~]; or bargaining



1 unit (14), substitute teachers of the department of education,
2 including part-time substitute teachers working less than
3 one-half of a full-time equivalent, the board shall assist in
4 the resolution of the impasse as follows:

5 (1) Voluntary mediation. During the first twenty days of
6 the date of impasse, either party may request the
7 board to assist in a voluntary resolution of the
8 impasse by appointing a mediator or mediators,
9 representative of the public from a list of qualified
10 persons maintained by the board;

11 (2) Mediation. If the impasse continues more than twenty
12 days, the board shall appoint a mediator or mediators
13 representative of the public from a list of qualified
14 persons maintained by the board, to assist the parties
15 in a voluntary resolution of the impasse. The board
16 may compel the parties to attend mediation, reasonable
17 in time and frequency, until the fiftieth day of
18 impasse. Thereafter, mediation shall be elective with
19 the parties, subject to the approval of the board;

20 (3) Report of the board. The board shall promptly report
21 to the appropriate legislative body or bodies the
22 following circumstances as each occurs:



1 (A) The date of a tentative agreement and whether the
2 terms thereof are confidential between the
3 parties;

4 (B) The ratification or failure of ratification of a
5 tentative agreement;

6 (C) The signing of a tentative agreement;

7 (D) The terms of a tentative agreement; or

8 (E) On or about the fiftieth day of impasse, the
9 failure of mediation.

10 The parties shall provide the board with the requisite
11 information; and

12 (4) After the fiftieth day of impasse, the parties may
13 resort to [~~such~~] other remedies that are not
14 prohibited by any agreement pending between them,
15 other provisions of this chapter, or any other law."

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun, before its effective date.

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

21 SECTION 6. This Act shall take effect on July 1, 2050.



REPORT Title:

Public School Substitute Teachers; Collective Bargaining Unit

Description:

Creates a collective bargaining unit for substitute teachers of the department of education, including part-time substitute teachers working less than one-half of a full-time equivalent, but gives them the option of joining an appropriate and existing bargaining unit. (SD2)

