

STAND. COM. REP. NO.

1465

Honolulu, Hawaii

March 23, 2007

RE: S.B. No. 1642  
S.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 1642, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LABOR,"

begs leave to report as follows:

The purpose of this bill is to establish clear distinctions between mandatory, excluded, and permissive subjects of collective bargaining. Specifically, this measure:

- (1) Allows a public employer to negotiate over procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions; and
- (2) Subjects violations of negotiated and agreed upon procedures and criteria to the grievance procedure contained in a collective bargaining agreement.

The Hawaii Government Employees Association and Hawaii State Teachers Association testified in support of this bill. The Department of Human Resources Development, Office of Collective Bargaining, Judiciary, Department of Education, Department of Human Resources of the City and County of Honolulu, Department of Human Resources of the County of Hawaii, Department of Personnel Services of the County of Maui, Honolulu Police Department, and Hawaii County Police Department testified in opposition to this measure.

SB1642 SD1 HSCR LAB HMS 2007-3274



Your Committee finds that pursuant to Act 399, Session Laws of Hawaii 1988, the Legislature amended subsection 89-9(d), Hawaii Revised Statutes (HRS), to expand the scope of collective bargaining in the public sector. The amendment was intended to protect contract provisions that would otherwise be considered invalid due to a literal interpretation of what are considered to be management rights.

Under current collective bargaining agreements, provisions regarding standards, criteria, and procedures relating to employee hiring, promotions, transfer, assignment, retention, suspension, demotion, discharge, disciplinary actions, layoffs, and displacement for lack of work and other similar personnel actions are widely incorporated and used.

Your Committee finds that negotiations over procedures and criteria of promotions, transfers, assignments, demotions, layoffs, suspension, terminations, discharges, or other disciplinary actions, and negotiations over the impact of transfers, assignments, and layoffs, are consistent with the underlying purpose of chapter 89, HRS. Exclusive representatives and public employees have negotiated over these subject matters since 1970. This measure attempts to clarify the rights of public employees to engage in collective bargaining under chapter 89, HRS, in light of recent court decisions, Hoopai v. Civil Service Comm'n, 106 Hawai'i 205 (2004) and United Public Workers, AFSCME, Local 646, AFL-CIO v. Hanneman, 106 Hawai'i 359 (2005).

However, your Committee understands the concerns raised by public employers that this measure, as currently drafted, will hinder a public employer's ability to effectively manage public employees and provide the most efficient government operations the people of Hawaii deserve. It is the understanding of your Committee that the various parties involved are currently discussing amended language for this measure that would be acceptable to both labor and management and therefore this matter warrants further discussion.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1642, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.



Respectfully submitted on  
behalf of the members of the  
Committee on Labor & Public  
Employment,



---

ALEX M. SONSON, Chair



