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# 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 as follows:

3           1. By amending subsection (d) to read:

4           "(d) 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 that would be inconsistent with the merit principle or the  
12 principle of equal pay for equal work pursuant to section 76-1  
13 or that would interfere with the rights and obligations of a  
14 public employer to:

15           (1) Direct employees;

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



- 1           (3) Hire, promote, transfer, assign, and retain employees
- 2           in positions;
- 3           (4) Suspend, demote, discharge, or take other disciplinary
- 4           action against employees for proper cause;
- 5           (5) Relieve an employee from duties because of lack of
- 6           work or other legitimate reason;
- 7           (6) Maintain efficiency and productivity, including
- 8           maximizing the use of advanced technology, in
- 9           government operations;
- 10          (7) Determine methods, means, and personnel by which the
- 11          employer's operations are to be conducted; and
- 12          (8) Take such actions as may be necessary to carry out the
- 13          missions of the employer in cases of emergencies.

14          ~~[The employer and the exclusive representative may~~  
15 ~~negotiate procedures governing the promotion and transfer of~~  
16 ~~employees to positions within a bargaining unit; the suspension,~~  
17 ~~demotion, discharge, or other disciplinary actions taken against~~  
18 ~~employees within the bargaining unit; and the layoff of~~  
19 ~~employees within the bargaining unit. Violations of the~~  
20 ~~procedures so negotiated may be subject to the grievance~~  
21 ~~procedure in the collective bargaining agreement.] This~~  
22 subsection shall not be used to invalidate provisions of

1 collective bargaining agreements in effect on and after June 30,  
2 2007, and shall not preclude negotiations over the procedures  
3 and criteria on promotions, transfers, assignments, demotions,  
4 layoffs, suspensions, terminations, discharges, or other  
5 disciplinary actions as a permissive subject of bargaining  
6 during collective bargaining negotiations or negotiations over a  
7 memorandum of agreement, memorandum of understanding, or other  
8 supplemental agreement.

9 Violations of the procedures and criteria so negotiated may  
10 be subject to the grievance procedure in the collective  
11 bargaining agreement."

12 2. By amending subsection (f) to read:

13 "(f) The repricing of classes within an appropriate  
14 bargaining unit may be negotiated as follows:

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

21 (2) If repricing has not been negotiated under paragraph  
22 (1), the employer of each jurisdiction shall ensure



1 establishment of procedures to periodically review, at  
2 least once in five years, unless otherwise agreed to  
3 by the parties, the repricing of classes within the  
4 bargaining unit. The repricing of classes based on  
5 the results of the periodic review shall be at the  
6 discretion of the employer. Any appropriations  
7 required to implement the repricing actions that are  
8 made at the employer's discretion shall not be  
9 construed as cost items."

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on July 1, 2007;  
13 provided that the amendments made to section 89-9(d), Hawaii  
14 Revised Statutes, by this Act shall not be repealed when that  
15 section is re-enacted on July 1, 2008, by section 8 of Act 245,  
16 Session Laws of Hawaii, 2005.



**Report Title:**

Labor

**Description:**

Allows a public employer to negotiate over procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions. Subjects violations of negotiated and agreed-upon procedures and criteria to the grievance procedure contained in a collective bargaining agreement. (SB1642 HD1)

