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# A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1           SECTION 1. Chapter 89, Hawaii Revised Statutes, is amended  
2 by adding two new sections to be appropriately designated and to  
3 read as follows:  
4           "§89-       Streamlining union certification. (a) When an  
5 employee, group of employees, or any individual or labor  
6 organization acting on their behalf, files a petition alleging  
7 that a majority of employees in bargaining unit (14)  
8 (nonsupervisory legislative employees) wish to be represented by  
9 an individual or labor organization for those purposes, the  
10 board shall investigate the petition. If the board finds that a  
11 majority of the employees in bargaining unit (14) have signed  
12 valid authorizations designating the individual or labor  
13 organization specified in the petition as their bargaining  
14 representative, and that no other individual or labor  
15 organization is currently certified or recognized as the  
16 exclusive representative of any of the employees in the unit,  
17 the board shall certify the individual or labor organization as



1 the representative without directing an election similar to that  
2 under section 89-7.

3 (b) The board shall adopt rules governing the  
4 certification of an exclusive representative under this section  
5 and shall have the final determination on any controversy  
6 concerning the eligibility of an employee to sign an  
7 authorization card and the validity of an employee's signature  
8 on an authorization card.

9 §89- Facilitating initial collective bargaining  
10 agreements. (a) No later than ten days after receiving a  
11 written request for collective bargaining from an individual or  
12 labor organization that has been newly organized or certified as  
13 a representative for bargaining unit (14) (nonsupervisory  
14 legislative employees), the parties shall meet and commence to  
15 bargain collectively and shall make every reasonable effort to  
16 conclude and sign a collective bargaining agreement.

17 (b) If, after the expiration of the ninety-day period  
18 beginning on the date on which bargaining commenced, or upon  
19 such additional period as the parties may agree, the parties  
20 have failed to reach an agreement, either party may notify the  
21 board of the existence of a dispute and request conciliation  
22 under section 89-11.



1        (c) If, after the expiration of the twenty-day period  
2 beginning on the date on which the request for conciliation is  
3 made under subsection (b), or upon such additional period as the  
4 parties may agree, the conciliator is not able to bring the  
5 parties to agreement by conciliation, the board shall refer the  
6 dispute to an arbitration panel established in accordance with  
7 section 89-11(e)(2)(A) and rules as may be prescribed by the  
8 board. The arbitration panel shall render a decision settling  
9 the dispute, and the decision shall be binding upon the parties  
10 for a period of two years, unless amended during that period by  
11 written consent of the parties."

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

14        1. By amending subsections (a) and (b) to read:

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

- 18        (1) Nonsupervisory employees in blue collar positions;  
19        (2) Supervisory employees in blue collar positions;  
20        (3) Nonsupervisory employees in white collar positions;  
21        (4) Supervisory employees in white collar positions;



- 1 (5) Teachers and other personnel of the department of  
2 education under the same pay schedule, including part-  
3 time employees working less than twenty hours a week  
4 who are equal to one-half of a full-time equivalent;
- 5 (6) Educational officers and other personnel of the  
6 department of education under the same pay schedule;
- 7 (7) Faculty of the University of Hawaii and the community  
8 college system;
- 9 (8) Personnel of the University of Hawaii and the  
10 community college system, other than faculty;
- 11 (9) Registered professional nurses;
- 12 (10) Institutional, health, and correctional workers;
- 13 (11) Firefighters;
- 14 (12) Police officers; [and]
- 15 (13) Professional and scientific employees, who cannot be  
16 included in any of the other bargaining units[-]; and
- 17 (14) Nonsupervisory staff of the legislative branch of the  
18 State.
- 19 (b) Because of the nature of the work involved and the  
20 essentiality of certain occupations that require specialized  
21 training, supervisory employees who are eligible for inclusion  
22 in bargaining units (9) through [~~13~~] (14) shall be included in



1 bargaining units (9) through [~~(13)~~] (14) respectively, instead  
2 of bargaining unit (2) or (4)."

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

4 "(d) For the purpose of negotiating a collective  
5 bargaining agreement, the public employer of an appropriate  
6 bargaining unit shall mean the governor together with the  
7 following employers:

8 (1) For bargaining units (1), (2), (3), (4), (9), (10),  
9 and (13), the governor shall have six votes and the  
10 mayors, the chief justice, and the Hawaii health  
11 systems corporation board shall each have one vote if  
12 they have employees in the particular bargaining unit;

13 (2) For bargaining units (11) and (12), the governor shall  
14 have four votes and the mayors shall each have one  
15 vote;

16 (3) For bargaining units (5) and (6), the governor shall  
17 have three votes, the board of education shall have  
18 two votes, and the superintendent of education shall  
19 have one vote;

20 (4) For bargaining units (7) and (8), the governor shall  
21 have three votes, the board of regents of the  
22 University of Hawaii shall have two votes, and the



1 president of the University of Hawaii shall have one  
2 vote[-];

3 (5) For bargaining unit (14), the president of the senate  
4 shall have one vote and the speaker of the house of  
5 representatives shall have one vote.

6 Any decision to be reached by the applicable employer group  
7 shall be on the basis of simple majority, except when a  
8 bargaining unit includes county employees from more than one  
9 county. In such case, the simple majority shall include at  
10 least one county."

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

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

15 (1) Elected or appointed official;

16 (2) Member of any board or commission; provided that  
17 nothing in this paragraph shall prohibit a member of a  
18 collective bargaining unit from serving on a local  
19 school board of a charter school or the charter school  
20 review panel established under chapter 302B;

21 (3) Top-level managerial and administrative personnel,  
22 including the department head, deputy or assistant to

- 1 a department head, administrative officer, director,  
2 or chief of a state or county agency or major  
3 division, and legal counsel;
- 4 (4) Secretary to top-level managerial and administrative  
5 personnel under paragraph (3);
- 6 (5) Individual concerned with confidential matters  
7 affecting employee-employer relations;
- 8 (6) Part-time employee working less than twenty hours per  
9 week, except part-time employees included in  
10 bargaining unit (5);
- 11 (7) Temporary employee of three months' duration or less;
- 12 (8) Employee of the executive office of the governor or a  
13 household employee at Washington Place;
- 14 (9) Employee of the executive office of the lieutenant  
15 governor;
- 16 (10) Employee of the executive office of the mayor;
- 17 (11) [~~Staff~~] Supervisory staff of the legislative branch of  
18 the State;
- 19 (12) Staff of the legislative branches of the counties,  
20 except employees of the clerks' offices of the  
21 counties;



1 (13) Any commissioned and enlisted personnel of the Hawaii  
2 national guard;

3 (14) Inmate, kokua, patient, ward, or student of a state  
4 institution;

5 (15) Student help;

6 (16) Staff of the Hawaii labor relations board;

7 (17) Employee of the Hawaii national guard youth challenge  
8 academy; or

9 (18) Employee of the office of elections."

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

12 "(e) If an impasse exists between a public employer and  
13 the exclusive representative of bargaining unit (2), supervisory  
14 employees in blue collar positions; bargaining unit (3),  
15 nonsupervisory employees in white collar positions; bargaining  
16 unit (4), supervisory employees in white collar positions;  
17 bargaining unit (6), educational officers and other personnel of  
18 the department of education under the same salary schedule;  
19 bargaining unit (8), personnel of the University of Hawaii and  
20 the community college system, other than faculty; bargaining  
21 unit (9), registered professional nurses; bargaining unit (10),  
22 institutional, health, and correctional workers; bargaining unit





1 (11), firefighters; bargaining unit (12), police officers; [~~or~~]  
2 bargaining unit (13), professional and scientific employees[~~7~~];  
3 or bargaining unit (14), nonsupervisory staff of the legislative  
4 branch of the State, the board shall assist in the resolution of  
5 the impasse as follows:

6 (1) Mediation. During the first twenty days after the  
7 date of impasse, the board shall immediately appoint a  
8 mediator, representative of the public from a list of  
9 qualified persons maintained by the board, to assist  
10 the parties in a voluntary resolution of the impasse.

11 (2) Arbitration. If the impasse continues twenty days  
12 after the date of impasse, the board shall immediately  
13 notify the employer and the exclusive representative  
14 that the impasse shall be submitted to a three-member  
15 arbitration panel who shall follow the arbitration  
16 procedure provided herein.

17 (A) Arbitration panel. Two members of the  
18 arbitration panel shall be selected by the  
19 parties; one shall be selected by the employer  
20 and one shall be selected by the exclusive  
21 representative. The neutral third member of the  
22 arbitration panel, who shall chair the



1 arbitration panel, shall be selected by mutual  
2 agreement of the parties. In the event that the  
3 parties fail to select the neutral third member  
4 of the arbitration panel within thirty days from  
5 the date of impasse, the board shall request the  
6 American Arbitration Association, or its  
7 successor in function, to furnish a list of five  
8 qualified arbitrators from which the neutral  
9 arbitrator shall be selected. Within five days  
10 after receipt of such list, the parties shall  
11 alternately strike names from the list until a  
12 single name is left, who shall be immediately  
13 appointed by the board as the neutral arbitrator  
14 and chairperson of the arbitration panel.

15 (B) Final positions. Upon the selection and  
16 appointment of the arbitration panel, each party  
17 shall submit to the panel, in writing, with copy  
18 to the other party, a final position which shall  
19 include all provisions in any existing collective  
20 bargaining agreement not being modified, all  
21 provisions already agreed to in negotiations, and



1 all further provisions which each party is  
2 proposing for inclusion in the final agreement.

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

16 (D) Arbitration decision. Within thirty days after  
17 the conclusion of the hearing, a majority of the  
18 arbitration panel shall reach a decision pursuant  
19 to subsection (f) on all provisions that each  
20 party proposed in its respective final position  
21 for inclusion in the final agreement and transmit  
22 a preliminary draft of its decision to the



1 parties. The parties shall review the  
2 preliminary draft for completeness, technical  
3 correctness, and clarity and may mutually submit  
4 to the panel any desired changes or adjustments  
5 that shall be incorporated in the final draft of  
6 its decision. Within fifteen days after the  
7 transmittal of the preliminary draft, a majority  
8 of the arbitration panel shall issue the  
9 arbitration decision."

10 SECTION 4. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2010.

13

INTRODUCED BY: Kal Abush

JAN 19 2010



**Report Title:**

Legislative Employees; Unionization

**Description:**

Authorizes nonsupervisory legislative employees to unionize through the card check and expedited bargaining process.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

