

S .B. NO. 2722

JAN 25 2010

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT.

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

1 SECTION 1. Section 76-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§76-1 Purposes; merit principle. It is the purpose of
4 this chapter to require each jurisdiction to establish and
5 maintain a separately administered civil service system based on
6 the merit principle. The merit principle is the selection of
7 persons based on their fitness and ability for public employment
8 and the retention of employees based on their demonstrated
9 appropriate conduct and productive performance. It is also the
10 purpose of this chapter to build a career service in government,
11 free from coercive political influences, to render impartial
12 service to the public at all times, according to the dictates of
13 ethics and morality and in compliance with all laws.

14 In order to achieve these purposes, it is the declared
15 policy of the State that the human resource program within each
16 jurisdiction be administered in accordance with the following:

17 (1) Equal opportunity for all in compliance with all laws
18 prohibiting discrimination. No person shall be

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1 discriminated against in examination, appointment,
2 reinstatement, reemployment, promotion, transfer,
3 demotion, or removal, with respect to any position
4 when the work may be efficiently performed by the
5 person without hazard or danger to the health and
6 safety of the person or others;

7 (2) Impartial selection of individuals for public service
8 by means of competitive tests which are fair,
9 objective, and practical;

10 (3) Incentives for competent employees within the service,
11 whether financial or promotional opportunities and
12 other performance based group and individual awards
13 that encourage continuous improvement to achieve
14 superior performance;

15 (4) Reasonable job security for competent employees and
16 discharge of unnecessary or inefficient employees with
17 the right to grieve and appeal personnel actions
18 through the:

19 (A) Contractual grievance procedure for employees
20 covered by chapter 89; or

- 1 (B) Internal complaint procedures and the merit
2 appeals board for employees excluded from
3 coverage under chapter 89;
- 4 (5) [~~Equal~~] Except between jurisdictions, equal pay for
5 equal work shall apply between classes in the same
6 bargaining unit [~~among jurisdictions~~] for those
7 classes determined to be equal through systematic
8 classification of positions based on objective
9 criteria and adequate job evaluation, unless it has
10 been agreed in accordance with chapter 89 to negotiate
11 the repricing of classes; and
- 12 (6) Harmonious and cooperative relations between
13 government and its employees, including employee
14 organizations representing them, to develop and
15 maintain a well-trained, efficient, and productive
16 work force that utilizes advanced technology to ensure
17 effective government operations and delivery of public
18 services."

19 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:

21 "(d) For the purpose of negotiating a collective
22 bargaining agreement, the public employer of an appropriate

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1 bargaining unit shall [~~mean the governor together with the~~
2 ~~following employers:~~

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

8 ~~(2) For bargaining units (11) and (12), the governor shall~~
9 ~~have four votes and the mayors shall each have one~~
10 ~~vote;~~

11 ~~(3) For bargaining units (5) and (6), the governor shall~~
12 ~~have three votes, the board of education shall have~~
13 ~~two votes, and the superintendent of education shall~~
14 ~~have one vote;~~

15 ~~(4) For bargaining units (7) and (8), the governor shall~~
16 ~~have three votes, the board of regents of the~~
17 ~~University of Hawaii shall have two votes, and the~~
18 ~~president of the University of Hawaii shall have one~~
19 ~~vote.] be as follows:~~

20 (1) Except as provided in paragraph (5), the governor for
21 bargaining units (1), (2), (3), (4), (9), (10), and
22 (13); provided that the governor shall have two votes

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1 and the chief justice and the Hawaii health systems
2 corporation board shall each have one vote if they
3 have employees in the particular bargaining unit;

4 (2) Except as provided in paragraph (5), the governor for
5 bargaining unit (11);

6 (3) The governor for bargaining units (5) and (6);

7 (4) The governor, together with board of regents of the
8 University of Hawaii and the president of the
9 University of Hawaii for bargaining units (7) and (8).

10 The governor shall have three votes, the board of
11 regents of the University of Hawaii shall have two
12 votes, and the president of the University of Hawaii
13 shall have one vote;

14 (5) The mayors of the counties for bargaining units (1),
15 (2), (3), (4), (9), (10), (11), (12), and (13) for
16 employees of the counties that are part of any of the
17 mentioned bargaining units, as follows:

18 (A) All the mayors, or any combination thereof, may
19 negotiate collectively as a single employing
20 unit, in which case the mayors shall each have
21 one vote; or

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1 (B) Each mayor may negotiate with an exclusive
2 representative a collective bargaining agreement
3 applicable to the mayor's respective county as a
4 jurisdiction separate from the other mayors.

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

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

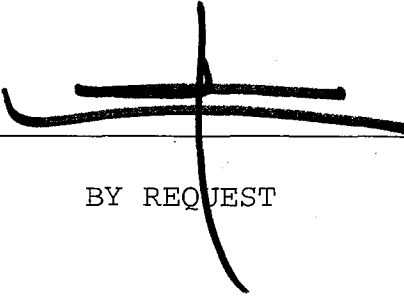
12 SECTION 5. This Act shall take effect upon its approval;
13 provided that the amendments made to section 89-6(d), Hawaii
14 Revised Statutes, by this Act shall not be repealed when section
15 89-6, Hawaii Revised Statutes, is reenacted pursuant to Act 245,
16 Session Laws of Hawaii 2005.

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INTRODUCED BY:


BY REQUEST

Report Title:

Collective Bargaining; Public Employment

Description:

Requires the State and counties to negotiate and execute separate collective bargaining agreements with exclusive representatives of public employee organizations. Increases accountability by making the Governor the sole negotiator for the Department of Education.

JUSTIFICATION SHEET

DEPARTMENT: Human Resources Development

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT.

PURPOSE: To require the State and counties to negotiate and execute separate collective bargaining agreements with exclusive representatives of public employee organizations. Also increases accountability by making the Governor the sole negotiator for the Department of Education.

MEANS: Amend sections 76-1 and 89-6(d), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Under existing collective bargaining laws, the State and the counties must negotiate and execute collective bargaining agreements in concert. As a consequence, both the State and counties are saddled with the same terms, costs, and conditions in collective bargaining agreements despite having very different interests, revenue sources, and fiscal positions.

For example, one of the counties' primary revenue sources is property taxes, while the State relies primarily on other revenue sources such as income taxes and the General Excise Tax. These revenue stream differences create very different fiscal realities for the State and counties that may not be adequately reflected in a single collective bargaining agreement.

The State and counties also differ in the types of employees they retain and the services they provide. For example, only the counties employ bargaining unit (12) police officers. Therefore, the counties may be better suited than the State to negotiate and execute a collective

bargaining agreement with the exclusive representative of police officers.

The differing interests of the State and counties may also protract the collective bargaining process, potentially worsening the fiscal condition of the State and counties during poor economic times when prompt action is necessary. Under current law, a collective bargaining agreement that includes county employees requires the approval of at least one county mayor. This requirement can delay final agreement on a collective bargaining contract.

Consequently, for the above reasons, this bill requires the State and counties to negotiate and execute separate collective bargaining agreements with the exclusive representatives of public employee organizations.

Additionally, this bill also brings collective bargaining for the Department of Education under the Governor by removing the collective bargaining votes currently provided to the Board of Education and Department of Education for bargaining units (5) and (6), teachers and educational officers. This change is necessary to ensure accountability in Hawaii's education system.

Impact on the public: The public will benefit because the State and counties will have greater fiscal flexibility with their own collective bargaining agreements, providing for greater efficiency in the spending of public moneys.

Impact on the department and other agencies: This bill will impact state and county agencies by potentially modifying their budgeting for human resources due to the separate collective bargaining agreements.

GENERAL FUND:

None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: All State executive agencies, the Office of
Hawaiian Affairs, the Judiciary, the Hawaii
Health Systems Corporation, the legislative
bodies of the State, City and County of
Honolulu, County of Maui, County of Hawaii,
and County of Kauai.

EFFECTIVE DATE: Upon approval.