

JAN 23 2009

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1 SECTION 1. The legislature finds that under the present
2 law, employees of the Hawaii health systems corporation are
3 allocated among seven bargaining units that also include
4 employees of other public employers. The legislature finds that
5 a more appropriate categorization of the bargaining units
6 requires that the employees of the Hawaii health systems
7 corporation be separated from other employees of different
8 public employers and be placed in separate bargaining units that
9 are counterparts to the existing ones. The purpose of this Act
10 is to establish seven separate bargaining units for employees of
11 the Hawaii health systems corporation.

12 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
13 amended by amending subsections (a) to (d) to read as follows:

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

17 (1) Nonsupervisory employees in blue collar positions;



- 1 (2) Supervisory employees in blue collar positions;
- 2 (3) Nonsupervisory employees in white collar positions;
- 3 (4) Supervisory employees in white collar positions;
- 4 (5) Teachers and other personnel of the department of
- 5 education under the same pay schedule, including part-
- 6 time employees working less than twenty hours a week
- 7 who are equal to one-half of a full-time equivalent;
- 8 (6) Educational officers and other personnel of the
- 9 department of education under the same pay schedule;
- 10 (7) Faculty of the University of Hawaii and the community
- 11 college system;
- 12 (8) Personnel of the University of Hawaii and the
- 13 community college system, other than faculty;
- 14 (9) Registered professional nurses;
- 15 (10) Institutional, health, and correctional workers;
- 16 (11) Firefighters;
- 17 (12) Police officers; [and]
- 18 (13) Professional and scientific employees, who cannot be
- 19 included in any of the other bargaining units[-];
- 20 (14) Nonsupervisory employees in blue collar positions with
- 21 the Hawaii health systems corporation;



- 1 (15) Supervisory employees in blue collar positions with
- 2 the Hawaii health systems corporation;
- 3 (16) Nonsupervisory employees in white collar positions
- 4 with the Hawaii health systems corporation;
- 5 (17) Supervisory employees in white collar positions with
- 6 the Hawaii health systems corporation;
- 7 (18) Registered professional nurses with the Hawaii health
- 8 systems corporation;
- 9 (19) Institutional, health, and correctional workers with
- 10 the Hawaii health systems corporation; and
- 11 (20) Professional and scientific employees with the Hawaii
- 12 health systems corporation who cannot be included in
- 13 any of the other bargaining units.

14 (b) Because of the nature of the work involved and the
15 essentiality of certain occupations that require specialized
16 training, supervisory employees who are eligible for inclusion
17 in bargaining units (9) through (13), or (18) through (20),
18 shall be included in bargaining units (9) through (13), or (18)
19 through (20), respectively, instead of bargaining unit (2) or
20 (4) [-], or (15) or (17), respectively.

21 (c) The classification systems of each jurisdiction shall
22 be the bases for differentiating blue collar from white collar



1 employees, professional from institutional, health and
2 correctional workers, supervisory from nonsupervisory employees,
3 teachers from educational officers, [and] faculty from
4 nonfaculty[-], and Hawaii health systems corporation employees
5 from other public employees. In differentiating supervisory
6 from nonsupervisory employees, class titles alone shall not be
7 the basis for determination. The nature of the work, including
8 whether a major portion of the working time of a supervisory
9 employee is spent as part of a crew or team with nonsupervisory
10 employees, shall be considered also.

11 (d) For the purpose of negotiating a collective bargaining
12 agreement, the public employer of an appropriate bargaining unit
13 shall mean the governor together with the following employers:

14 (1) For bargaining units (1), (2), (3), (4), (9), (10),
15 and (13), the governor shall have [~~six~~] ____ votes and
16 the mayors[~~7~~] and the chief justice[~~7~~, ~~and the Hawaii~~
17 ~~health systems corporation board~~] shall each have one
18 vote if they have employees in the particular
19 bargaining unit;

20 (2) For bargaining units (11) and (12), the governor shall
21 have four votes and the mayors shall each have one
22 vote;



1 (3) For bargaining units (5) and (6), the governor shall
2 have three votes, the board of education shall have
3 two votes, and the superintendent of education shall
4 have one vote;

5 (4) For bargaining units (7) and (8), the governor shall
6 have three votes, the board of regents of the
7 University of Hawaii shall have two votes, and the
8 president of the University of Hawaii shall have one
9 vote[-];

10 (5) For bargaining units (14) through (20), the Hawaii
11 health systems corporation system regional boards
12 shall have votes and the Hawaii health systems
13 corporation board shall have one vote.

14 Any decision to be reached by the applicable employer group
15 shall be on the basis of simple majority, except when a
16 bargaining unit includes county employees from more than one
17 county. In such case, the simple majority shall include at
18 least one county."

19 SECTION 3. Section 89-11, Hawaii Revised Statutes, is
20 amended by amending subsections (d) and (e) to read as follows:

21 "(d) If an impasse exists between a public employer and
22 the exclusive bargaining representative of bargaining unit (1),

1 nonsupervisory employees in blue collar positions; bargaining
2 unit (5), teachers and other personnel of the department of
3 education; [~~or~~] bargaining unit (7), faculty of the University
4 of Hawaii and the community college system~~[7]~~; bargaining
5 unit (14), nonsupervisory employees in blue collar positions
6 with the Hawaii health systems corporation, the board shall
7 assist in the resolution of the impasse as follows:

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



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

4 (A) The date of a tentative agreement and whether the
5 terms thereof are confidential between the
6 parties;

7 (B) The ratification or failure of ratification of a
8 tentative agreement;

9 (C) The signing of a tentative agreement;

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

11 (E) On or about the fiftieth day of impasse, the
12 failure of mediation.

13 The parties shall provide the board with the requisite
14 information; and

15 (4) After the fiftieth day of impasse, the parties may
16 resort to such other remedies that are not prohibited
17 by any agreement pending between them, other
18 provisions of this chapter, or any other law.

19 (e) If an impasse exists between a public employer and the
20 exclusive representative of bargaining unit (2), supervisory
21 employees in blue collar positions; bargaining unit (3),
22 nonsupervisory employees in white collar positions; bargaining



1 unit (4), supervisory employees in white collar positions;
2 bargaining unit (6), educational officers and other personnel of
3 the department of education under the same salary schedule;
4 bargaining unit (8), personnel of the University of Hawaii and
5 the community college system, other than faculty; bargaining
6 unit (9), registered professional nurses; bargaining unit (10),
7 institutional, health, and correctional workers; bargaining unit
8 (11), firefighters; bargaining unit (12), police officers; [ex]
9 bargaining unit (13), professional and scientific employees[7];
10 bargaining unit (15), supervisory employees in blue collar
11 positions with the Hawaii health systems corporation; bargaining
12 unit (16), nonsupervisory employees in white collar positions
13 with the Hawaii health systems corporation; bargaining unit
14 (17), supervisory employees in white collar positions with the
15 Hawaii health systems corporation; bargaining unit (18),
16 registered professional nurses with the Hawaii health systems
17 corporation; bargaining unit (19), institutional, health, and
18 correctional workers with the Hawaii health systems corporation;
19 or bargaining unit (20), professional and scientific employees
20 with the Hawaii health systems corporation, the board shall
21 assist in the resolution of the impasse as follows:



1 (1) Mediation. During the first twenty days after the
2 date of impasse, the board shall immediately appoint a
3 mediator, representative of the public from a list of
4 qualified persons maintained by the board, to assist
5 the parties in a voluntary resolution of the impasse.

6 (2) Arbitration. If the impasse continues twenty days
7 after the date of impasse, the board shall immediately
8 notify the employer and the exclusive representative
9 that the impasse shall be submitted to a three-member
10 arbitration panel who shall follow the arbitration
11 procedure provided herein.

12 (A) Arbitration panel. Two members of the
13 arbitration panel shall be selected by the
14 parties; one shall be selected by the employer
15 and one shall be selected by the exclusive
16 representative. The neutral third member of the
17 arbitration panel, who shall chair the
18 arbitration panel, shall be selected by mutual
19 agreement of the parties. In the event that the
20 parties fail to select the neutral third member
21 of the arbitration panel within thirty days from
22 the date of impasse, the board shall request the



1 American Arbitration Association, or its
2 successor in function, to furnish a list of five
3 qualified arbitrators from which the neutral
4 arbitrator shall be selected. Within five days
5 after receipt of such list, the parties shall
6 alternately strike names from the list until a
7 single name is left, who shall be immediately
8 appointed by the board as the neutral arbitrator
9 and chairperson of the arbitration panel.

10 (B) Final positions. Upon the selection and
11 appointment of the arbitration panel, each party
12 shall submit to the panel, in writing, with copy
13 to the other party, a final position which shall
14 include all provisions in any existing collective
15 bargaining agreement not being modified, all
16 provisions already agreed to in negotiations, and
17 all further provisions which each party is
18 proposing for inclusion in the final agreement.

19 (C) Arbitration hearing. Within one hundred twenty
20 days of its appointment, the arbitration panel
21 shall commence a hearing at which time the
22 parties may submit either in writing or through



1 oral testimony, all information or data
2 supporting their respective final positions. The
3 arbitrator, or the chairperson of the arbitration
4 panel together with the other two members, are
5 encouraged to assist the parties in a voluntary
6 resolution of the impasse through mediation, to
7 the extent practicable throughout the entire
8 arbitration period until the date the panel is
9 required to issue its arbitration decision.

10 (D) Arbitration decision. Within thirty days after
11 the conclusion of the hearing, a majority of the
12 arbitration panel shall reach a decision pursuant
13 to subsection (f) on all provisions that each
14 party proposed in its respective final position
15 for inclusion in the final agreement and transmit
16 a preliminary draft of its decision to the
17 parties. The parties shall review the
18 preliminary draft for completeness, technical
19 correctness, and clarity and may mutually submit
20 to the panel any desired changes or adjustments
21 that shall be incorporated in the final draft of
22 its decision. Within fifteen days after the



1 transmittal of the preliminary draft, a majority
 2 of the arbitration panel shall issue the
 3 arbitration decision."

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

7 SECTION 5. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval;
 10 provided that the amendments made to section 89-6, Hawaii
 11 Revised Statutes, shall not be repealed when that section is
 12 reenacted on July 1, 2010, pursuant to section 1 of Act 5,
 13 Special Session Laws of Hawaii 2008.

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INTRODUCED BY:

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Report Title:

Bargaining Units; Hawaii Health Systems Corporation

Description:

Establishes separate bargaining units for the employees of the Hawaii Health Systems Corporation.

