

JAN 21 2011

S.B. NO. 1078

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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. Section 89-9, Hawaii Revised Statutes, is  
2 amended as follows:

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

4           "(a) The employer and the exclusive representative shall  
5 meet at reasonable times, including meetings sufficiently in  
6 advance of the February 1 impasse date under section 89-11, and  
7 shall negotiate in good faith with respect to wages, hours, the  
8 benefits of and the amounts of contributions by the State and  
9 respective counties to the Hawaii employer-union health benefits  
10 trust fund to the extent allowed in subsection (e), and other  
11 terms and conditions of employment which are subject to  
12 collective bargaining and which are to be embodied in a written  
13 agreement as specified in section 89-10 [~~but such~~]; provided  
14 that the obligation to meet and negotiate does not compel either  
15 party to agree to a proposal or make a concession [~~provided~~  
16 ~~that the parties may not negotiate with respect to cost items as~~  
17 ~~defined by section 89-2 for the biennium 1999 to 2001, and the~~  
18 ~~cost items of employees in bargaining units under section 89-6~~



1 ~~in effect on June 30, 1999, shall remain in effect until July 1,~~  
2 ~~2001]."~~

3 2. By amending subsections (d) and (e) to read:

4 "(d) Excluded from the subjects of negotiations are  
5 matters of classification, reclassification, [~~benefits of but~~  
6 ~~not contributions to the Hawaii employer union health benefits~~  
7 ~~trust fund,~~] recruitment, examination, initial pricing, and  
8 retirement benefits except as provided in section 88-8(h). The  
9 employer and the exclusive representative shall not agree to any  
10 proposal which would be inconsistent with the merit principle or  
11 the principle of equal pay for equal work pursuant to section  
12 76-1 or which would interfere with the rights and obligations of  
13 a public employer to:

- 14 (1) Direct employees;
- 15 (2) Determine qualifications, standards for work, and the  
16 nature and contents of examinations;
- 17 (3) Hire, promote, transfer, assign, and retain employees  
18 in positions;
- 19 (4) Suspend, demote, discharge, or take other disciplinary  
20 action against employees for proper cause;
- 21 (5) Relieve an employee from duties because of lack of  
22 work or other legitimate reason;



1 (6) Maintain efficiency and productivity, including  
2 maximizing the use of advanced technology, in  
3 government operations;

4 (7) Determine methods, means, and personnel by which the  
5 employer's operations are to be conducted; and

6 (8) Take such actions as may be necessary to carry out the  
7 missions of the employer in cases of emergencies.

8 This subsection shall not be used to invalidate provisions  
9 of collective bargaining agreements in effect on and after  
10 June 30, 2007, and shall not preclude negotiations over the  
11 procedures and criteria on promotions, transfers, assignments,  
12 demotions, layoffs, suspensions, terminations, discharges, or  
13 other disciplinary actions as a permissive subject of bargaining  
14 during collective bargaining negotiations or negotiations over a  
15 memorandum of agreement, memorandum of understanding, or other  
16 supplemental agreement.

17 Violations of the procedures and criteria so negotiated may  
18 be subject to the grievance procedure in the collective  
19 bargaining agreement.

20 (e) Negotiations relating to the benefits of and  
21 contributions to the Hawaii employer-union health benefits trust  
22 fund shall be for the purpose of agreeing upon the benefits



1 under the health benefits plan and amounts which the State and  
2 counties shall contribute under [~~section 87-4,~~] sections 87A-32,  
3 87A-33, 87A-33.5, 87A-34, 87A-35, 87A-36, and 87A-37 toward the  
4 payment of the costs for a health benefits plan, as defined in  
5 section [~~87-1(8),~~] 87A-1, and group life insurance benefits[~~-~~  
6 and]; provided that the parties shall not be bound by the  
7 benefits and amounts contributed under prior agreements[~~-~~  
8 ~~provided that section 89-11 for the resolution of disputes by~~  
9 ~~way of arbitration shall not be available to resolve impasses or~~  
10 ~~disputes relating to the amounts the State and counties shall~~  
11 ~~contribute to the Hawaii employer union health benefits trust~~  
12 ~~fund]. "~~

13 SECTION 2. Section 89-11, Hawaii Revised Statutes, is  
14 amended by amending subsection (g) to read as follows:

15 "(g) The decision of the arbitration panel shall be final  
16 and binding upon the parties on all provisions submitted to the  
17 arbitration panel. [~~If the parties have reached agreement with~~  
18 ~~respect to the amounts of contributions by the State and~~  
19 ~~counties to the Hawaii employer union health benefits trust fund~~  
20 ~~by the tenth working day after the arbitration panel issues its~~  
21 ~~decision, the final and binding agreement of the parties on all~~  
22 ~~provisions shall consist of the panel's decision and the amounts~~



1 ~~of contributions agreed to by the parties. If the parties have~~  
2 ~~not reached agreement with respect to the amounts of~~  
3 ~~contributions by the State and counties to the Hawaii employer-~~  
4 ~~union health benefits trust fund by the close of business on the~~  
5 ~~tenth working day after the arbitration panel issues its~~  
6 ~~decision, the parties shall have five days to submit their~~  
7 ~~respective recommendations for such contributions to the~~  
8 ~~legislature, if it is in session, and if the legislature is not~~  
9 ~~in session, the parties shall submit their respective~~  
10 ~~recommendations for such contributions to the legislature during~~  
11 ~~the next session of the legislature. In such event, the final~~  
12 ~~and binding agreement of the parties on all provisions shall~~  
13 ~~consist of the panel's decision and the amounts of contributions~~  
14 ~~established by the legislature by enactment, after the~~  
15 ~~legislature has considered the recommendations for such~~  
16 ~~contributions by the parties.] It is strictly understood that~~  
17 ~~no member of a bargaining unit subject to this subsection shall~~  
18 ~~be allowed to participate in a strike on the issue of the~~  
19 ~~amounts of contributions by the State and counties to the Hawaii~~  
20 ~~employer-union health benefits trust fund. The parties shall~~  
21 ~~take whatever action is necessary to carry out and effectuate~~



1 the final and binding agreement. The parties may, at any time  
2 and by mutual agreement, amend or modify the panel's decision.

3 Agreements reached pursuant to the decision of an  
4 arbitration panel and the amounts of contributions by the State  
5 and counties to the Hawaii employer-union health benefits trust  
6 fund, as provided herein, shall not be subject to ratification  
7 by the employees concerned. All items requiring any moneys for  
8 implementation shall be subject to appropriations by the  
9 appropriate legislative bodies and the employer shall submit all  
10 such items within ten days after the date on which the agreement  
11 is entered into as provided herein, to the appropriate  
12 legislative bodies."

13 SECTION 3. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY:

Chen He



**Report Title:**

Collective Bargaining; Public Employees

**Description:**

Specifies that the benefits of the Hawaii employer-union health benefits trust fund are subject to negotiation; clarifies that a decision of an arbitration panel shall be final; updates statutory references; makes conforming amendments.

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

