
A BILL FOR AN ACT

RELATING TO SCHOOL TEACHERS.

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

1 SECTION 1. The legislature recognized in 1970 the right of
2 public employees to organize for the purpose of collective
3 bargaining and enacted Hawaii's collective bargaining law, which
4 is codified in chapter 89, Hawaii Revised Statutes. In enacting
5 Hawaii's collective bargaining law, the legislature found that
6 joint decision-making was the modern way of administering
7 government, and in cases where public employees had been granted
8 the right to share in the decision-making process affecting
9 wages and working conditions, they had become more responsive
10 and better able to exchange ideas and information on operations
11 with their administrators.

12 Since 1970, Hawaii's collective bargaining law has been
13 reevaluated and amended more than fifty times, with each
14 amendment reflecting the need for legislative action to respond
15 to changing times, needs and circumstances. The legislature
16 finds that it is again at a point in time where Hawaii's
17 collective bargaining law must be reevaluated and amended to
18 repair the deteriorating bargaining process that has plagued



1 Hawaii's public school system under Hawaii's present collective
2 bargaining law.

3 In 1973, Hawaii experienced its first public workers
4 strike, which was between Hawaii's teachers union and the
5 department of education. This strike lasted eighteen days and
6 resulted in lost instructional days for Hawaii's public school
7 students that were never recovered. In 2001, another statewide
8 teachers strike lasted for twenty days and again resulted in the
9 loss of instructional days for public school students. Although
10 new contracts were reached between the teachers union and the
11 department of education in 1972, 1984, and 1997, teacher strikes
12 were averted at the eleventh hour with disruption and
13 distractions in classrooms and school operations because of
14 uncertainty and disharmony leading up to the new agreements. In
15 2009, budgetary restrictions applicable to the department of
16 education for fiscal years 2009-2010 and 2010-2011 resulted in a
17 collective bargaining agreement that required approximately
18 thirteen thousand public school teachers to take seventeen
19 furlough days, beginning in the current school year. This
20 reduction of the public school year by seventeen furlough days
21 gave Hawaii the shortest school year in the nation and deprived



1 Hawaii's public school students of educational opportunities
2 they will never get back.

3 The purpose of this Act is to bring stability back to
4 Hawaii's public school system by changing the collective
5 bargaining law to allow teachers to exercise their
6 constitutional right to organize and negotiate as a collective
7 group, while protecting the rights, needs, and dreams of
8 Hawaii's public school students by keeping teachers in Hawaii's
9 classrooms during the contract negotiation process.

10 SECTION 2. Section 89-11, Hawaii Revised Statutes, is
11 amended by amending subsections (d) and (e) to read as follows:

12 "(d) If an impasse exists between a public employer and
13 the exclusive bargaining representative of bargaining unit (1),
14 nonsupervisory employees in blue collar positions[~~;~~ bargaining
15 unit (5), teachers and other personnel of the department of
16 education~~;~~] or bargaining unit (7), faculty of the University of
17 Hawaii and the community college system, the board shall assist
18 in the resolution of the impasse as follows:

19 (1) Voluntary mediation. During the first twenty days of
20 the date of impasse, either party may request the
21 board to assist in a voluntary resolution of the
22 impasse by appointing a mediator or mediators,



1 representative of the public from a list of qualified
2 persons maintained by the board;

3 (2) Mediation. If the impasse continues more than twenty
4 days, the board shall appoint a mediator or mediators
5 representative of the public from a list of qualified
6 persons maintained by the board, to assist the parties
7 in a voluntary resolution of the impasse. The board
8 may compel the parties to attend mediation, reasonable
9 in time and frequency, until the fiftieth day of
10 impasse. Thereafter, mediation shall be elective with
11 the parties, subject to the approval of the board;

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

15 (A) The date of a tentative agreement and whether the
16 terms thereof are confidential between the
17 parties;

18 (B) The ratification or failure of ratification of a
19 tentative agreement;

20 (C) The signing of a tentative agreement;

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



1 (E) On or about the fiftieth day of impasse, the
2 failure of mediation.

3 The parties shall provide the board with the requisite
4 information; and

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

9 (e) If an impasse exists between a public employer and the
10 exclusive representative of bargaining unit (2), supervisory
11 employees in blue collar positions; bargaining unit (3),
12 nonsupervisory employees in white collar positions; bargaining
13 unit (4), supervisory employees in white collar positions;
14 bargaining unit (5), teachers and other personnel of the
15 department of education; bargaining unit (6), educational
16 officers and other personnel of the department of education
17 under the same salary schedule; bargaining unit (8), personnel
18 of the University of Hawaii and the community college system,
19 other than faculty; bargaining unit (9), registered professional
20 nurses; bargaining unit (10), institutional, health, and
21 correctional workers; bargaining unit (11), firefighters;
22 bargaining unit (12), police officers; or bargaining unit (13),



1 professional and scientific employees, the board shall assist in
2 the resolution of the impasse as follows:

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

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

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

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

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



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

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



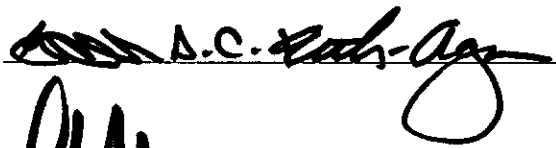
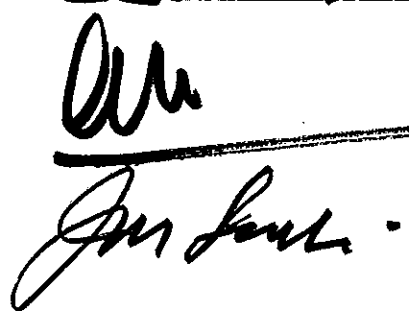
1 correctness, and clarity and may mutually submit
 2 to the panel any desired changes or adjustments
 3 that shall be incorporated in the final draft of
 4 its decision. Within fifteen days after the
 5 transmittal of the preliminary draft, a majority
 6 of the arbitration panel shall issue the
 7 arbitration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

8 SECTION 3. Section 2 of this Act shall not apply to
 9 collective bargaining agreements applicable to the 2010-2011 and
 10 2011-2012 school years.

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

13 SECTION 5. This Act shall take effect upon its approval.
 14

INTRODUCED BY:

~~SEN. D.C. Rob-By~~



JAN 21 2011



Report Title:

School Teachers; Bargaining Unit 5; Binding Arbitration

Description:

Requires mediation and binding arbitration for an impasse in collective bargaining between a public employer and bargaining unit 5 teachers and other personnel of the department of education.

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

