
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 and 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~~] that are subject to
12 collective bargaining and [~~which~~] that are to be embodied in a
13 written agreement as specified in section 89-10, but [~~such~~] this
14 obligation does not compel either party to agree to a proposal
15 or make a concession[; ~~provided that the parties may not~~
16 ~~negotiate with respect to cost items as defined by section 89-2~~
17 ~~for the biennium 1999 to 2001, and the cost items of employees~~



1 ~~in bargaining units under section 89-6 in effect on June 30,~~
2 ~~1999, shall remain in effect until July 1, 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,~~] and 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~~] that would be inconsistent with the merit
11 principle or the principle of equal pay for equal work pursuant
12 to section 76-1 or [~~which~~] that would interfere with the rights
13 and obligations of 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
- 7 the 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 June
10 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] that the
2 State and counties shall contribute under section 87-4, toward
3 the payment of the costs for a health benefits plan, as defined
4 in section 87-1(8), and group life insurance benefits, and the
5 parties shall not be bound by the benefits and amounts
6 contributed under prior agreements[; ~~provided that section 89-11~~
7 ~~for the resolution of disputes by way of arbitration shall not~~
8 ~~be available to resolve impasses or disputes relating to the~~
9 ~~amounts the State and counties shall contribute to the Hawaii~~
10 ~~employer-union health benefits trust fund]."~~

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

13 "(g) The decision of the arbitration panel shall be final
14 and binding upon the parties on all provisions submitted to the
15 arbitration panel. [~~If the parties have reached agreement with~~
16 ~~respect to the amounts of contributions by the State and~~
17 ~~counties to the Hawaii employer-union health benefits trust fund~~
18 ~~by the tenth working day after the arbitration panel issues its~~
19 ~~decision, the final and binding agreement of the parties on all~~
20 ~~provisions shall consist of the panel's decision and the amounts~~
21 ~~of contributions agreed to by the parties. If the parties have~~
22 ~~not reached agreement with respect to the amounts of~~



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



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

11 SECTION 3. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Karl Rhoads

JAN 25 2011



Report Title:

Collective Bargaining; Public Employees; Health Benefits

Description:

Includes benefits under the Hawaii employer-union health benefits trust fund as a mandatory subject of negotiation between the public employer and the exclusive representative of a public employee bargaining unit. Makes disputes relating to the amounts of contributions subject to the arbitration process.

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