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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 89-2, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4           "Essential employee" means an employee designated by the  
5 public employer to fill an essential position.

6           "Essential position" means any position designated by the  
7 board as necessary to be worked in order to avoid or remove any  
8 imminent or present danger to public health or safety, which  
9 position shall be filled by the public employer."

10          SECTION 2. Section 89-12, Hawaii Revised Statutes, is  
11 amended to read as follows:

12          "**§89-12 Strikes, rights and prohibitions.** (a) It shall be  
13 unlawful for any employee to participate in a strike if the  
14 employee:

15           (1) Is not included in the appropriate bargaining unit  
16           involved in an impasse; or



1 (2) Is included in the appropriate bargaining unit  
2 involved in an impasse that has been referred to  
3 arbitration for a decision[-], or

4 (3) Is an essential employee, but only when the employee  
5 is designated to fill an essential position.

6 (b) It shall be lawful for an employee, who is not  
7 prohibited from striking under subsection (a) and who is in the  
8 appropriate bargaining unit involved in an impasse, to  
9 participate in a strike under the following conditions:

10 (1) The requirements of section 89-11 relating to the  
11 resolution of disputes have been complied with in good  
12 faith;

13 (2) The proceedings for the prevention of any prohibited  
14 practices have been exhausted;

15 (3) The collective bargaining agreement and any extension  
16 of the agreement has expired; and

17 (4) The exclusive representative has given a ten-day  
18 notice of intent to strike, together with a statement  
19 of its position on all remaining issues in dispute, to  
20 the employer and the board.

21 Within three days of receipt of the notice of intent to  
22 strike, the employer shall submit its position on the remaining

1 issues in dispute that are included in the statement transmitted  
2 by the exclusive representative with its notice of intent to  
3 strike. The board shall immediately release the information on  
4 the positions of the parties to the public.

5 (c) If a strike that may endanger the health or safety of  
6 the public is about to occur or is in progress, the public  
7 employer concerned may petition the board to make an  
8 investigation. If the board finds that there is imminent or  
9 present danger to the health or safety of the public, the board  
10 shall establish specific requirements that shall be complied  
11 with and shall include, but not be limited to:

- 12 (1) Designation of essential positions; and  
13 (2) Any other requirement it deems necessary in order to  
14 avoid or remove any imminent or present danger to the  
15 health or safety of the public.

16 (d) The public employer shall give notice to an essential  
17 employee:

- 18 (1) By serving or delivering a copy thereof to the  
19 essential employee being notified; or  
20 (2) By mailing a copy thereof by certified or registered  
21 mail, return receipt requested, deliverable to the  
22 addressee only, addressed to the essential employee



1 being notified at the essential employee's place of  
2 residence; or

3 (3) If service cannot be effected as set forth in  
4 subsection (d) (1) or (2) above, or if the strike is in  
5 progress, by publishing at least once a day for three  
6 consecutive days, a copy thereof in both of the  
7 newspapers having the largest general circulation in  
8 the State. After the final publication, it shall be  
9 conclusively presumed that the essential employee has  
10 received such notice.

11 After receipt of notice, it shall be the duty of the essential  
12 employee to contact the public employer for the essential  
13 employee's work assignment.

14 ~~[(e)]~~ (e) If any employee organization or any employee is  
15 violating or failing to comply with the requirements of this  
16 section, or if there is reasonable cause to believe that an  
17 employee organization or an employee will violate or fail to  
18 comply with such requirements, the public employer affected  
19 shall, forthwith, institute appropriate proceedings in the  
20 circuit in which the violation occurs to enjoin the performance  
21 of any acts or practices forbidden by this section, or to  
22 require the employee organization or employees to comply with



1 the requirements of this section. Jurisdiction to hear and  
2 dispose of all actions under this section is conferred upon each  
3 circuit court, and each court may issue in compliance with  
4 chapter 380, such orders and decrees, by way of injunction,  
5 mandatory injunction, or otherwise, as may be appropriate to  
6 enforce this section. The right to a jury trial shall not apply  
7 to any proceeding brought under this section."

8 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

Calvin L. Day  
By Request

JAN 13 2012



# H.B. NO. 1762

**Report Title:**

Collective Bargaining; Public Sector Unions; Essential Employees; City and County of Honolulu Package

**Description:**

Prohibits strikes by public employees who are designated as essential employees.

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

