

JAN 20 2012

---

---

# 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 including department  
2 of education principals and vice-principals in bargaining unit  
3 (6) is inappropriate because principals and vice-principals  
4 fulfill a managerial role within each school. As members of the  
5 department of education administrative team, principals and  
6 vice-principals are obligated and accountable for carrying out  
7 the directions and policies of the superintendent of education.  
8 Principals and vice-principals exercise independent judgment in  
9 the interest of their employer, the board of education, to hire,  
10 transfer, suspend, promote, discharge, assign, reward, and  
11 discipline other employees. Further, principals and vice-  
12 principals handle grievances of other employees. Because the  
13 exercise of this authority is not of a merely routine or  
14 clerical nature, principals and vice-principals are not  
15 appropriate members of a collective bargaining unit. The  
16 superintendent of education should be able to exert direct  
17 control over the managers of schools, and therefore, it would be  
18 more appropriate for the positions of principal and vice-



1 principal to be filled through appointment by the superintendent  
2 and confirmation by the board of education.

3       The legislature finds that removing principals and vice-  
4 principals from bargaining unit (6) is in the best interests of  
5 the State. Due to the limited financial resources of the State,  
6 it is of paramount importance and in the best interests of the  
7 department of education to ensure efficient and responsible  
8 expenditure of state funds by making the managers of schools,  
9 principals and vice-principals, empowered by and accountable to  
10 the superintendent of education. This Act will improve the  
11 financial efficiency and accountability of principals and vice-  
12 principals while clearly distinguishing their important role  
13 from the department of education employees that they manage.

14       The purpose of this Act is to remove department of  
15 education principals and vice-principals from bargaining unit  
16 (6).

17       SECTION 2. Section 89-6, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19       "(a) All employees throughout the State within any of the  
20 following categories shall constitute an appropriate bargaining  
21 unit:

22       (1) Nonsupervisory employees in blue collar positions;



# S.B. NO. 2458

- 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
- 10          schedule[?], excluding principals and vice-principals;
- 11          (7) Faculty of the University of Hawaii and the community
- 12          college system;
- 13          (8) Personnel of the University of Hawaii and the
- 14          community college system, other than faculty;
- 15          (9) Registered professional nurses;
- 16          (10) Institutional, health, and correctional workers;
- 17          (11) Firefighters;
- 18          (12) Police officers; and
- 19          (13) Professional and scientific employees, who cannot be
- 20          included in any of the other bargaining units."

21           SECTION 3. Section 89-11, Hawaii Revised Statutes, is  
22 amended by amending subsection (e) to read as follows:



1           "(e) If an impasse exists between a public employer and  
2 the exclusive representative of bargaining unit (2), supervisory  
3 employees in blue collar positions; bargaining unit (3),  
4 nonsupervisory employees in white collar positions; bargaining  
5 unit (4), supervisory employees in white collar positions;  
6 bargaining unit (6), educational officers and other personnel of  
7 the department of education under the same salary schedule[~~7~~],  
8 excluding principals and vice-principals; bargaining unit (8),  
9 personnel of the University of Hawaii and the community college  
10 system, other than faculty; bargaining unit (9), registered  
11 professional nurses; bargaining unit (10), institutional,  
12 health, and correctional workers; bargaining unit (11),  
13 firefighters; bargaining unit (12), police officers; or  
14 bargaining unit (13), professional and scientific employees, the  
15 board shall assist in the resolution of the impasse as follows:

16           (1) Mediation. During the first twenty days after the  
17 date of impasse, the board shall immediately appoint a  
18 mediator, representative of the public from a list of  
19 qualified persons maintained by the board, to assist  
20 the parties in a voluntary resolution of the impasse.

21           (2) Arbitration. If the impasse continues twenty days  
22 after the date of impasse, the board shall immediately



1           notify the employer and the exclusive representative  
2           that the impasse shall be submitted to a three-member  
3           arbitration panel who shall follow the arbitration  
4           procedure provided herein.

5           (A) Arbitration panel. Two members of the  
6           arbitration panel shall be selected by the  
7           parties; one shall be selected by the employer  
8           and one shall be selected by the exclusive  
9           representative. The neutral third member of the  
10          arbitration panel, who shall chair the  
11          arbitration panel, shall be selected by mutual  
12          agreement of the parties. In the event that the  
13          parties fail to select the neutral third member  
14          of the arbitration panel within thirty days from  
15          the date of impasse, the board shall request the  
16          American Arbitration Association, or its  
17          successor in function, to furnish a list of five  
18          qualified arbitrators from which the neutral  
19          arbitrator shall be selected. Within five days  
20          after receipt of such list, the parties shall  
21          alternately strike names from the list until a  
22          single name is left, who shall be immediately



1 appointed by the board as the neutral arbitrator  
2 and chairperson of the arbitration panel.

3 (B) Final positions. Upon the selection and  
4 appointment of the arbitration panel, each party  
5 shall submit to the panel, in writing, with copy  
6 to the other party, a final position which shall  
7 include all provisions in any existing collective  
8 bargaining agreement not being modified, all  
9 provisions already agreed to in negotiations, and  
10 all further provisions which each party is  
11 proposing for inclusion in the final agreement.

12 (C) Arbitration hearing. Within one hundred twenty  
13 days of its appointment, the arbitration panel  
14 shall commence a hearing at which time the  
15 parties may submit either in writing or through  
16 oral testimony, all information or data  
17 supporting their respective final positions. The  
18 arbitrator, or the chairperson of the arbitration  
19 panel together with the other two members, are  
20 encouraged to assist the parties in a voluntary  
21 resolution of the impasse through mediation, to  
22 the extent practicable throughout the entire



1 arbitration period until the date the panel is  
2 required to issue its arbitration decision.

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

19 SECTION 4. The exclusion of public school principals and  
20 vice-principals from bargaining unit (6) shall commence upon the  
21 expiration of the collective bargaining agreement between the  
22 board of education and the exclusive representative of



1 bargaining unit (6) that was in force and effect on the  
2 effective date of this Act.

3 SECTION 5. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

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

12 SECTION 7. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect upon its approval.  
15

INTRODUCED BY:

*Alvin Goff* *Clarena K. Trishika*  
*Michael Roberts*  
*Michelle Tidani*

*[Signature]*





# S.B. NO. 2458

**Report Title:**

Collective Bargaining Unit (6); Principals and Vice-Principals;  
Exclusion

**Description:**

Excludes principals and vice-principals of DOE from bargaining  
unit (6).

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

