

NEIL ABERCROMBIE  
GOVERNOR



KATHRYN S. MATAYOSHI  
SUPERINTENDENT

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
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HONOLULU, HAWAII 96804

**Date:** 02/01/2013

**Committee:** Senate Judiciary and Labor

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 1247 RELATING TO COLLECTIVE BARGAINING.

**Purpose of Bill:** Prohibits: (1) a public employer from wilfully implementing or attempting to implement any term of a collective bargaining proposal without the exclusive representative's agreement; and (2) a public employee or employee organization from wilfully implementing or attempting to implement any term of a collective bargaining proposal without the employer's agreement.

**Department's Position:**

The Department of Education opposes S.B. No. 1247, which seeks to make unilateral implementation of a collective bargaining proposal a prohibited practice. Unilateral implementation is a process that is used throughout the nation when the parties reach impasse in bargaining. To remove it as an option would interfere with the rights available under HRS, Chapter 89.

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR  
ON  
SENATE BILL NO. 1247

February 1, 2013

## RELATING TO COLLECTIVE BARGAINING

Senate Bill No. 1247 amends Section 89-13, HRS, to prohibit a public employer from implementing or attempting to implement any term of a collective bargaining proposal without the agreement of the exclusive representative.

The Department of Budget and Finance opposes this bill. Unilateral implementation can be an important tool for the employer. As evidenced during the last economic down-cycle and period of recession when savings are critically necessary to maintain operations and the employee representative's tactics to stall negotiations thwarted realization of savings, implementing terms in such cases are preferable to other alternatives such as employee layoffs or shut-down of government operations.

If the Committee's concern is to continue to ensure the parties engage in good faith bargaining, the requirement to bargain in good faith is present long before any terms could be unilaterally implemented. Section 89-13, HRS, already requires the parties to engage in good faith bargaining. In a case of unilateral implementation, if the moving party does not engage in good faith bargaining, it is doubtful unilateral implementation would withstand legal challenge.