



House Committee on Labor & Public Employment
Tuesday, March 12, 2013
9:00 a.m.

SB 868, SD1, HD1, Relating to Collective Bargaining.

Dear Chairman Nakashima and Committee Members:

The University of Hawaii Professional Assembly is opposed to the proposed legislation.

The proposed legislation does not appropriately address issues confronting public sector bargaining such as underfunding of the Hawaii Labor Relations Board which frustrates the adjudication of problems between labor and management. SB 868, SD1, HD1 does not offer a solution that achieves a balanced relationship between public employers and employee unions that encourages ongoing problem-solving and consultation to establish a mutually satisfactory employment environment.

UHPA encourages the committee to defer this measure to ensure that it is not a part of further legislative deliberations.

Respectively submitted,

Kristeen Hanselman
Associate Executive Director

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY

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TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
ON
SENATE BILL NO. 868, PROPOSED H.D. 1

March 12, 2013

RELATING TO COLLECTIVE BARGAINING

Senate Bill No. 868, Proposed H.D. 1, requires mandatory binding arbitration for bargaining units 1 (blue collar non-supervisory), 5 (teachers) and 7 (university faculty) if the public employer imposes any term of a collective bargaining agreement proposal without the agreement of the exclusive bargaining unit representative.

The Department of Budget and Finance strongly opposes this bill because it removes the only effective mechanism that the public employer has in moving forward to resolve negotiating disputes with bargaining units that have the right to strike.

In resolving negotiating disputes, a union has the right to strike and the public employer has the right to impose its last and best final offer. This bill will allow a union to strike but takes away the public employer's right to impose its last and best final offer.

We believe that the bill will unfairly tilt the playing field and is not in the best interest of public sector collective bargaining.



LATE TESTIMONY

1200 Ala Kapuna Street λ Honolulu, Hawaii 96819
Tel: (808) 833-2711 λ Fax: (808) 839-7106 λ Web: www.hsta.org

TESTIMONY BEFORE THE SENATE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

DATE: TUESDAY, MARCH 12, 2013

RE: S.B. 868, SD1 – RELATING TO COLLECTIVE BARGAINING

Person Testifying: WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Wil Okabe
President
Joan Kamila Lewis
Vice President
Colleen Pasco
Secretary-Treasurer
Alvin Nagasako
Executive Director

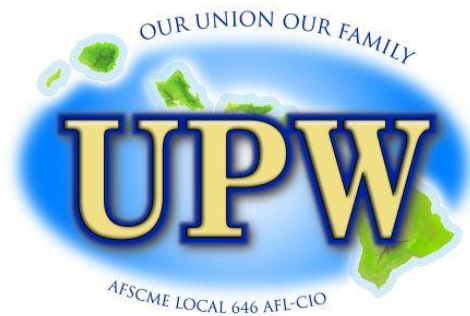
To the Honorable Chair Nakashima and Members of the Committee:

The Hawaii State Teachers Association (HSTA) **opposes S.B. 868, SD1**, which requires mandatory and binding arbitration for bargaining unit five (5) if the employer imposes any term of a collective bargaining agreement proposal without the agreement of the exclusive representative.

HSTA is the exclusive representative of more than 12,500 public and charter school teachers statewide. As the state affiliate, of the 2.2 million member National Education Association, HSTA has been adversely affected by the Department of Education's (Department) Last, Best and Final Offer (LBFO) whereas the employer willfully implemented without any regard to Hawaii Revised Statute, Chapter §89-13, "Prohibited Practice and Evidence of Bad Faith" bargaining. As such, HSTA and the NEA believes that the attainment and exercise of collective bargaining rights are essential to the promotion of education and student needs in society.

HSTA believes in the collective bargaining process whereby the employer and the employee's organization works out an agreement and mutually agrees on a contract. It is also important for teachers to have a voice in their contract because of the impact it has on students and learning. We look to the legislature to enact laws that promote continued negotiations and good faith collective bargaining.

Thank you for the opportunity to testify.



LATE TESTIMONY

THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Seventh Legislature
Regular Session of 2013

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
The Honorable Rep. Mark Nakashima, Chair
The Honorable Rep. Mark Hashem, Vice Chair

DATE OF HEARING: Tuesday, March 12, 2013
TIME OF HEARING: 9 a.m.
PLACE OF HEARING: Conference Room 309

TESTIMONY ON SB868 SD1 RELATING TO COLLECTIVE BARGAINING

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW strongly opposes SB868 SD1, which requires mandatory and binding arbitration for bargaining units (1), (5), and (7) if the employer imposes any term of a collective bargaining agreement proposal without the agreement of the exclusive representative.

If the employer's representative is certain that binding arbitration will occur within a certain time frame, then the "other remedies" allowed to the employee by law, including the right to strike, will be undermined. Furthermore, the circumstance under which this binding arbitration will take place - namely, the imposition of a unilateral collective bargaining agreement by the employer's representative - is very troublesome as it acknowledges and creates statutory procedure for the dismissal of the collective bargaining process.

UPW believes that collective bargaining is dependent upon both parties having comparable abilities and resources. The UPW also believes that this measure would disrupt this balance and give the employer an undue advantage over the employee. This proposed measure promotes bad-faith bargaining, employee discontent, and an unfavorable image of our State's ability to compromise and work with its employees directly and on equal footing. For the reasons stated above, we ask that the Committee not pass this measure.

Thank you for the opportunity to testify.



LATE TESTIMONY

46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

**TESTIMONY FOR SENATE BILL 868, SENATE DRAFT 1, PROPOSED HOUSE
DRAFT 1, RELATING TO COLLECTIVE BARGAINING**

**House Committee on Labor
Hon. Mark M. Nakashima, Chair
Hon. Mark M. Hashem, Vice Chair**

**Tuesday, March 12, 2013, 9:00 AM
State Capitol, Conference Room 309**

Honorable Chair Nakashima and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in support of the intent of, with proposed amendments for SB 868, SD 1, proposed HD 1, relating to collective bargaining.

We have two primary reservations about the proposed House draft's legal imposition of binding arbitration in the event that the employer implements a "last, best, final" offer," particularly fifty days after impasse occurs. First, mandating binding arbitration would strip bargaining units of the right to strike. Second, imposing binding arbitration fifty days after impasse if the employer institutes an LBFO allows the employer to put an LBFO in place near the end March (since impasse is declared on February 1 of a the year in which a contract expires, according to state law). Thus, this measure would, in theory, allow an employer to unilaterally impose an LBFO approximately three months before a collective bargaining agreement expires, time that would otherwise be used for negotiations. We note that arbitration hearings can take months—and sometimes more than a year—to complete, potentially forcing employees to work under the conditions of an LBFO for an extended period of time. While arbitration may be a neutral means of resolving contractual disagreements, we believe that arbitration should be voluntarily selected by an exclusive representative and, moreover, that allowing LBFO implementation for any length of time, and especially if levied more than 90 days before the expiration of an effective collective bargaining agreement, contravenes good faith bargaining, in which the employer and an exclusive representative collaboratively negotiate pay, medical benefits, and work conditions for members of a bargaining unit. Numerous collective bargaining agreements have been reached after the date of impasse. We feel that setting a precedent for truncating negotiations months before a contract expires disincentivizes attempts to reach a deal, creating a situation in which the state may drag out negotiations until impasse, impose a contract,

then rely on arbitration for resolution. We are also concerned that this measure, if enacted, would force certain bargaining units, such as BU-5 (teachers) to strike in the middle of a school year (before impasse, mostly likely in January or February), and hold strike votes even earlier (since a bargaining unit would never know when an LBFO would be imposed), further clouding the bargaining process with unnecessary and premature threats of work stoppages. Such a provision would not allow employees much time to prepare for or the state much time to respond to the possibility of a work stoppage. While the state would not necessarily have to implement an LBFO immediately after the fiftieth day following declaration of impasse, setting that date as a benchmark for the proposed arbitration process tacitly permits the state to do so, should it choose. Accordingly, we encourage the committee to replace the contents of this bill with the contents of HB 578, which would make unilateral implementation of any term of a collective bargaining proposal without the consent of all parties involved in negotiations a prohibited practice under HRS 89-13.

On a philosophical note, what is the point of collective bargaining if, at the end of the day, the state can impose whatever terms it wishes? Answer: There would be no point, if that were to continue being the case. The state could, in theory, drag out negotiations with any labor group until the deadline for a new contract has nearly passed, then put in place whatever contractual terms it favors. Again, such a dictatorial system disincentivizes negotiating from the state's side of the table; bargaining units would face increased pressure to strike, sacrifice the right to strike for binding arbitration, or accept salary and medical premium reductions, as well as less favorable working conditions. Collective bargaining exists to protect the interests and quality of life of the state's employees from being slashed and burned at the whim of politicians. Single-party implementation of LBFOs, on the other hand, undermines collective bargaining protections by vesting the state with the power to make labor decisions without the consent of employees and, in theory, unravel employment protections for which state workers have struggled for decades to obtain.

Mahalo for the opportunity to testify in support of the intent of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

hashem1 - Kenneth

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 11, 2013 2:10 PM
To: LABtestimony
Cc: kfkaneohe@aol.com
Subject: Submitted testimony for SB868 on Mar 12, 2013 09:00AM

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SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth B. FINCH	Individual	Support	No

Comments: I support this bill

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LATE TESTIMONY

SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Fong	Individual	Oppose	No

Comments: I am opposed to this bill simply because it mandates binding arbitration versus allowing bargaining units to negotiate in good faith. If the state does not like the terms, they have made a precedent to impose a last, final and best offer without recourse rather than negotiate under good faith. This bill proposal supports removing collective bargaining rights of employees by legislating it away. I am opposed because employees who have decided to collectively bargain, should have that right to, including striking if necessary to make their point clear.

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SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Freitag	Individual	Comments Only	No

Comments: The Hawaii State Teachers Association (HSTA) opposes S.B. 868, HD1, which requires mandatory and binding arbitration for bargaining unit five (5) if the employer imposes any term of a collective bargaining agreement proposal without the agreement of the exclusive representative. HSTA is the exclusive representative of more than 12,500+ public and charter school teachers statewide. As the state affiliate, of the 2.2 million member National Education Association, HSTA has been adversely affected by the Department of Education's (Department) Last, Best and Final Offer (LBFO) whereas the employer had willfully and implemented without any regard to Hawaii Revised Statute, Chapter §89-13, "Prohibited Practice and Evidence of Bad Faith" bargaining. As such, HSTA and the NEA believes that the attainment and exercise of collective bargaining rights are essential to the promotion of education and students needs in society. HSTA believes in the collective bargaining process whereby the employer and the employee's organization works out an agreement and mutually agrees on a contract. It is also important for teachers to have a voice in their contract because of the impact it has on students and learning. We look to the legislature to enact laws that regulate the ability of the employer to implement an LBFO to any employee without the mutual agreement from the employee organization. Thank you for the opportunity to testify. Teri Freitag a proud member of HSTA and a public school teacher for the past 37 years

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Cc: gurneth@gmail.com
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SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Gurneth Slavens	Individual	Oppose	No

Comments: When you take the teacher's voice out of the decision making process of education, you eliminate the people that are closest to the process. We know what works and what doesn't. We care if it works on a person-to-person level. You need our input and collective bargaining gives us that voice. Vote no on SB868!

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Cc: Lizzyfitz12@gmail.com
Subject: *Submitted testimony for SB868 on Mar 12, 2013 09:00AM*

SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Fitzpatrick	Individual	Oppose	No

Comments:

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SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Holokai	Individual	Oppose	No

Comments:

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SB868

Submitted on: 3/12/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Julia Davison	Individual	Oppose	No

Comments: teachers oppose

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SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Lacey Cabral	Individual	Oppose	No

Comments: I am asking that you oppose SB868. Rather than try to take away our collective bargaining rights, why don't we all try to work together in doing what is best for our students. Bottom line is that no matter what happens, Teachers will continue to educate our kids because we believe that they are our future. Why punish the people who are there for our kids every step of the way. Please consider giving us the respect that we show your children everyday.

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SB868

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
TYLER OKAMURA-TAGUPA	Individual	Oppose	No

Comments:

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