



Senate Committee on Judiciary and Labor
Tuesday, January 29, 2013
9:30 a.m.

SB 890, Relating to the Hawaii Labor Relations Board.

Dear Chairman Hee and Committee Members:

The University of Hawaii Professional Assembly supports SB 890 which will allow the governor to appoint an acting member of the Hawaii Labor Relations Board when a temporary vacancy occurs as a result of recusal by a board member. UHPA believes that decisions should reflect the participation of a full panel of board members to provide the balance of interest between employers and unions in their deliberations.

UHPA encourages the committee to act favorably on this proposed legislation.

Respectfully submitted,

A handwritten signature in black ink that reads "Kristeen Hanselman".

Kristeen Hanselman
Associate Executive Director

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January 28, 2013

To: The Honorable Clayton Hee, Chair,
The Honorable , Maile Shimabukuro, Vice Chair, and
Members of the Senate Committee on Judiciary & Labor

Date: Tuesday, January 29, 2013
Time: 9:300 a.m.
Place: Conference Room 016, State Capitol

From: Sesnita Moepono

Re: S.B. No. 890 Relating to Collective Bargaining

I. OVERVIEW OF PROPOSED LEGISLATION

The bill allows the Governor to appoint an acting member when a regular member is recused from a case.

II. CURRENT LAW

Current law does not provide for a replacement when a Board Member is recused from a case.

III. COMMENTS

I am testifying as an individual in support of this bill with changes. I am also a member of the Hawaii Labor Relations Board (HLRB) appointed and confirmed by the Senate to represent management. In 2011, I was required by the Ethics Commission to recuse myself from a case. This was the first time that anyone can recall this happening to the HLRB. This action left the Board with a simple majority of two members. The potential problem was the elimination of a tie breaker.

In 2011, the Hawaii State Teachers Association (HSTA) filed case no. CE-05-781. At the beginning of the prehearing/settlement conference, I disclosed the fact that my spouse was a member of HSTA. The Employer had no problems with my disclosure and stated that they saw no conflict of interest and the HSTA reserved their decision. Subsequently, the Ethics Commission's ruled that I had a conflict of interest because I had a "substantial financial interest" due to my spouse.

The Commission found that my spouse is a member of the Hawaii State Teachers Association that filed a Prohibited Practice Complaint challenging the

State's action to implement salary cuts of 5% and increasing the HSTA members' contribution for health insurance premiums from 40% to 50%.

The issue here is two fold.

First, the bill raises several questions, i.e. When would the acting member's term end? What would happen with the regular member's appointment?

I suggest the following language.

"An acting member, during the acting member's term of service, shall have the same powers and duties as the regular member[.]; provided that subsection (d) shall not apply to an acting member; and provided further that an acting member appointed due to a regular member's recusal shall be appointed for the case in which the recusal occurred and the appointment shall end when the final decision is filed or the case withdrawn.

Second,

I believe that in cases similar to this one, language in chapter 89 should allow a HLRB member to remain as a sitting member when the following conditions are met:

"Notwithstanding any other law to the contrary, a regular member shall not be deemed to have a conflict of interest or a financial interest when a case involves

(a) A spouse or a dependent child who is a state employee and statutorily required to join an employee organization as defined in §89-2 and

(b) any official action by the regular member may result in affecting the financial interest, including wages and benefits, of the spouse or the dependent child.

Please contact me if you have any questions. Mahalo nui loa for giving me the opportunity to testify on this bill