

JAN 24 2013

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 amending the definition of "collective bargaining" to
3 read as follows:
4 ""Collective bargaining" means the performance of the
5 mutual obligations of the public employer and an exclusive
6 representative to meet at reasonable times, to confer and
7 negotiate in good faith, and to execute a written agreement with
8 respect to wages, hours, amounts of contributions by the State
9 and counties to the Hawaii employer-union health benefits trust
10 fund, and other terms and conditions of employment, except that
11 by any such obligation neither party shall be compelled to agree
12 to a proposal or be required to make a concession. For the
13 purposes of this definition, "wages" includes the number of
14 incremental and longevity steps, the number of pay ranges, and
15 the movement between steps within the pay range and between the
16 pay ranges on a pay schedule under a collective bargaining
17 agreement. For the purposes of this chapter, "other terms and
18 conditions of employment" means other terms and conditions of



1 employment specifically incorporated into a collective
2 bargaining agreement."

3 SECTION 2. Section 89-11, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (e) to read:

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

20 (1) Mediation. During the first twenty days after the
21 date of impasse, the board shall immediately appoint a
22 mediator, representative of the public from a list of



1 qualified persons maintained by the board, to assist
2 the parties in a voluntary resolution of the impasse.

3 (2) Arbitration. If the impasse continues twenty days
4 after the date of impasse, the board shall immediately
5 notify the employer and the exclusive representative
6 that the impasse shall be submitted to a three-member
7 arbitration panel who shall follow the arbitration
8 procedure provided herein.

9 (A) Arbitration panel. Two members of the
10 arbitration panel shall be selected by the
11 parties[?] within twenty-five days after the date
12 of impasse; one shall be selected by the employer
13 and one shall be selected by the exclusive
14 representative. The neutral third member of the
15 arbitration panel, who shall chair the
16 arbitration panel, shall be selected [~~by mutual~~
17 ~~agreement of the parties.~~ In the event that the
18 ~~parties fail to select the neutral third member~~
19 ~~of the arbitration panel within thirty days from~~
20 ~~the date of impasse, the board shall request the~~
21 ~~American Arbitration Association, or its~~
22 ~~successor in function, to furnish a list of five~~



1 ~~qualified arbitrators from which the neutral~~
2 ~~arbitrator shall be selected. Within five days~~
3 ~~after receipt of such list, the parties shall~~
4 ~~alternately strike names from the list until a~~
5 ~~single name is left, who shall be immediately~~
6 ~~appointed by the board as the neutral arbitrator~~
7 ~~and chairperson of the arbitration panel.] and~~
8 appointed by the board from a list of qualified
9 persons in the field of labor management
10 relations within twenty-five days after the date
11 of impasse;

12 (B) Final positions. Upon the selection and
13 appointment of the arbitration panel, each party
14 shall submit to the panel, in writing, with copy
15 to the other party, a final position which shall
16 include all provisions in any existing collective
17 bargaining agreement not being modified, all
18 provisions already agreed to in negotiations, and
19 all further provisions which each party is
20 proposing for inclusion in the final agreement.

21 (C) Arbitration hearing. Within [~~one hundred~~] twenty
22 days of its appointment, the arbitration panel



1 shall commence a hearing at which time the
2 parties may submit either in writing or through
3 oral testimony, all information or data
4 supporting their respective final positions. The
5 hearing shall be completed without delay unless
6 the chairperson of the panel determines that the
7 delay is due to an unforeseeable emergency. The
8 arbitrator, or the chairperson of the arbitration
9 panel together with the other two members, are
10 encouraged to assist the parties in a voluntary
11 resolution of the impasse through mediation, to
12 the extent practicable throughout the entire
13 arbitration period until the date the panel is
14 required to issue its arbitration decision.

15 (D) Arbitration decision. Within thirty days after
16 the conclusion of the hearing, a majority of the
17 arbitration panel shall reach a decision pursuant
18 to subsection (f) on all provisions that each
19 party proposed in its respective final position
20 for inclusion in the final agreement and transmit
21 a preliminary draft of its decision to the
22 parties. The parties shall review the



1 preliminary draft for completeness, technical
2 correctness, and clarity and may mutually submit
3 to the panel any desired changes or adjustments
4 that shall be incorporated in the final draft of
5 its decision. Within fifteen days after the
6 transmittal of the preliminary draft, a majority
7 of the arbitration panel shall issue the
8 arbitration decision."

9 2. By amending subsections (g) and (h) to read:

10 "(g) The decision of the arbitration panel shall be final
11 and binding upon the parties on all provisions submitted to the
12 arbitration panel [~~-. If the parties have reached agreement with
13 respect to the amounts of contributions by the State and
14 counties to the Hawaii employer union health benefits trust fund
15 by the tenth working day after the arbitration panel issues its
16 decision, the final and binding agreement of the parties on all
17 provisions shall consist of the panel's decision and the amounts
18 of contributions agreed to by the parties. If the parties have
19 not reached agreement with respect to the amounts of
20 contributions by the State and counties to the Hawaii employer-
21 union health benefits trust fund by the close of business on the
22 tenth working day after the arbitration panel issues its~~



1 ~~decision, the parties shall have five days to submit their~~
2 ~~respective recommendations for such contributions to the~~
3 ~~legislature, if it is in session, and if the legislature is not~~
4 ~~in session, the parties shall submit their respective~~
5 ~~recommendations for such contributions to the legislature during~~
6 ~~the next session of the legislature. In such event, the final~~
7 ~~and binding agreement of the parties on all provisions shall~~
8 ~~consist of the panel's decision and the amounts of contributions~~
9 ~~established by the legislature by enactment, after the~~
10 ~~legislature has considered the recommendations for such~~
11 ~~contributions by the parties. It is strictly understood that no~~
12 ~~member of a bargaining unit subject to this subsection shall be~~
13 ~~allowed to participate in a strike on the issue of the amounts~~
14 ~~of contributions by the State and counties to the Hawaii~~
15 ~~employer union health benefits trust fund.] except in the event~~
16 ~~the decision of the panel does not comply with subsection (f).~~
17 The parties shall take whatever action is necessary to carry out
18 and effectuate the final and binding agreement. The parties
19 may, at any time and by mutual agreement, amend or modify the
20 panel's decision.

21 Agreements reached pursuant to the decision of an
22 arbitration panel and the amounts of contributions by the State



1 and counties to the Hawaii employer-union health benefits trust
 2 fund, as provided herein, shall not be subject to ratification
 3 by the employees concerned. All items requiring any moneys for
 4 implementation shall be subject to appropriations by the
 5 appropriate legislative bodies and the employer shall submit all
 6 such items within ten days after the date on which the agreement
 7 is entered into as provided herein, to the appropriate
 8 legislative bodies.

9 (h) Any time frame provided in an impasse procedure,
 10 whether an alternate procedure or the procedures in this
 11 section, ~~[may be modified by mutual agreement of the parties.~~
 12 ~~In the absence of a mutual agreement to modify time frames,]~~ any
 13 delay, failure, or refusal by either party to participate in the
 14 impasse procedure shall not be permitted to halt or otherwise
 15 delay the process, unless the board so orders due to an
 16 unforeseeable emergency. The process shall commence or continue
 17 as though all parties were participating."

18 SECTION 3. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

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

21

INTRODUCED BY: *James Inoué*



S.B. NO. 1375

Report Title:

Collective Bargaining; Impasse; Arbitration

Description:

Amends the definition of "collective bargaining" in section 89-2, HRS, to clarify that "other terms and conditions of employment" are limited to what is specifically incorporated into a collective bargaining agreement. Requires the arbitration panel to be selected within twenty-five days after the date of an impasse from a list of qualified persons. Reduces the amount of time in which an arbitration panel must begin proceedings after selection from one hundred twenty days to twenty days. Requires an arbitration hearing to be completed without delay unless there is an unforeseeable emergency. Repeals the authority of the parties to modify any time frame provided for in an impasse procedure.

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

