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# A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 89-11, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) If an impasse exists between a public employer and  
4 the exclusive bargaining representative of bargaining unit (1),  
5 nonsupervisory employees in blue collar positions; bargaining  
6 unit (5), teachers and other personnel of the department of  
7 education; or bargaining unit (7), faculty of the University of  
8 Hawaii and the community college system, the board shall assist  
9 in the resolution of the impasse as follows:

10 (1) Voluntary mediation. During the first twenty days of  
11 the date of impasse, either party may request the  
12 board to assist in a voluntary resolution of the  
13 impasse by appointing a mediator or mediators,  
14 representative of the public from a list of qualified  
15 persons maintained by the board;

16 (2) Mediation. If the impasse continues more than twenty  
17 days, the board shall appoint a mediator or mediators  
18 representative of the public from a list of qualified



1 persons maintained by the board, to assist the parties  
2 in a voluntary resolution of the impasse. The board  
3 may compel the parties to attend mediation, reasonable  
4 in time and frequency, until the fiftieth day of  
5 impasse. Thereafter, mediation shall be elective with  
6 the parties, subject to the approval of the board;

7 (3) Report of the board. The board shall promptly report  
8 to the appropriate legislative body or bodies the  
9 following circumstances as each occurs:

10 (A) The date of a tentative agreement and whether the  
11 terms thereof are confidential between the  
12 parties;

13 (B) The ratification or failure of ratification of a  
14 tentative agreement;

15 (C) The signing of a tentative agreement;

16 (D) The terms of a tentative agreement; or

17 (E) On or about the fiftieth day of impasse, the  
18 failure of mediation.

19 The parties shall provide the board with the requisite  
20 information; and

21 (4) Other remedies; arbitration. After the fiftieth day  
22 of impasse, the parties may resort to such other



1 remedies that are not prohibited by any agreement  
2 pending between them, other provisions of this  
3 chapter, or any other law[-]; provided that if the  
4 parties representing the employer impose any term of a  
5 collective bargaining proposal without the agreement  
6 of the exclusive representative, the board shall  
7 immediately notify the employer and the exclusive  
8 representative that the impasse shall be submitted to  
9 a three-member arbitration panel who shall follow the  
10 arbitration procedure provided herein.

11 (A) Arbitration panel. Two members of the  
12 arbitration panel shall be selected by the  
13 parties; one shall be selected by the employer  
14 and one shall be selected by the exclusive  
15 representative. The neutral third member of the  
16 arbitration panel, who shall chair the  
17 arbitration panel, shall be selected by mutual  
18 agreement of the parties. In the event that the  
19 parties fail to select the neutral third member  
20 of the arbitration panel within thirty days from  
21 the date of impasse, the board shall request the  
22 American Arbitration Association, or its



1 successor in function, to furnish a list of five  
2 qualified arbitrators from which the neutral  
3 arbitrator shall be selected. Within five days  
4 after receipt of such list, the parties shall  
5 alternately strike names from the list until a  
6 single name is left, who shall be immediately  
7 appointed by the board as the neutral arbitrator  
8 and chairperson of the arbitration panel.

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

18 (C) Arbitration hearing. Within one hundred twenty  
19 days of its appointment, the arbitration panel  
20 shall commence a hearing at which time the  
21 parties may submit either in writing or through  
22 oral testimony, all information or data



1 supporting their respective final positions. The  
2 chairperson of the arbitration panel together  
3 with the other two members, is encouraged to  
4 assist the parties in a voluntary resolution of  
5 the impasse through mediation, to the extent  
6 practicable throughout the entire arbitration  
7 period until the date the panel is required to  
8 issue its arbitration decision.

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



1                   of the arbitration panel shall issue the  
2                   arbitration decision."

3           SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 3. This Act shall take effect on January 1, 2113.



**Report Title:**

Collective Bargaining; Public Employment; Arbitration

**Description:**

Requires mandatory and binding arbitration if an employer imposes any term of a collective bargaining agreement proposal without the agreement of the exclusive representative. Effective January 1, 2113. (SB868 HD1)

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

