
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 arbitrator, or the chairperson of the arbitration
3 panel together with the other two members, are
4 encouraged to assist the parties in a voluntary
5 resolution of the impasse through mediation, to
6 the extent practicable throughout the entire
7 arbitration period until the date the panel is
8 required to 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 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. Effective January 1, 2113.
(PROPOSED SB868 HD1)

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