
A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYEES.

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

1 SECTION 1. The legislature finds that Hawaii's collective
2 bargaining in public employment law, chapter 89, Hawaii Revised
3 Statutes, was enacted to promote labor management harmony in the
4 public sector by:

- 5 (1) Establishing guidelines for employment relations
6 relating to wages, hours, and working conditions;
7 (2) Providing a method for dealing with disputes and work
8 stoppages; and
9 (3) Maintaining a favorable political and social
10 environment.

11 The legislature further finds that the policy to promote
12 harmonious and cooperative relations between government and its
13 employees rests on the right of public employees to organize for
14 the purpose of collective bargaining, in accordance with article
15 XIII, section 2, of the Constitution of the State of Hawaii.

16 The legislature also finds that the United States Supreme
17 Court is currently reviewing a case that may conceivably alter



1 the foundations of public sector collective bargaining,
2 *Friedrichs v. California Teachers Association, et. al.*, U.S.
3 Supreme Court Docket No. 14-915. The issues in question are
4 whether:

- 5 (1) *Abood v. Detroit Board of Education* should be
6 overruled and public-sector "agency shop" arrangements
7 invalidated under the First Amendment; and
- 8 (2) It violates the First Amendment to require that public
9 employees affirmatively object to subsidizing
10 nonchargeable speech by public-sector unions, rather
11 than requiring that employees affirmatively consent to
12 subsidizing such speech.

13 The outcome and disposition of this landmark case could result
14 in huge ramifications on the application and adherence to both
15 chapters 76 and 89, Hawaii Revised Statutes.

16 The legislature finds that should the United States Supreme
17 Court strike down laws requiring the payment of union dues by
18 public sector employees, such a ruling would fundamentally
19 undermine this legislature's consistent efforts to ensure labor
20 management peace. Not only would such a ruling effectively
21 hamstring the collective bargaining representative's ability to



1 collect resources from its membership, it would greatly diminish
2 the public employee's ability to negotiate with management.

3 Accordingly, the purpose of this Act is to ensure that
4 public employees are able to effectively collectively bargain
5 with the public employer by establishing a mechanism that will
6 provide the exclusive bargaining representative with the
7 resources necessary to adequately represent public employees.

8 SECTION 2. Chapter 89, Hawaii Revised Statutes, is amended
9 by adding a new section to be appropriately designated and to
10 read as follows:

11 "§89- Public employees' collective bargaining fund. (a)

12 There is established in the treasury the public employees'
13 collective bargaining fund into which shall be deposited an
14 amount not less than per cent of the total compensation
15 provided by the State to every public employee during the
16 previous fiscal year. The amount shall be deposited not later
17 than the close of business of the first day of each fiscal year.

18 (b) Moneys from the fund shall be disbursed pursuant to a
19 contract between the department of budget and finance and the
20 exclusive bargaining representative. The amount disbursed to
21 the exclusive bargaining representative shall equal the amount



1 deposited into the fund on the first day of each fiscal year
2 pursuant to subsection (a), multiplied by the number of
3 employees classified in the unit represented by the exclusive
4 bargaining representative, and divided by the total number of
5 public employees at the end of business on June 30 of the
6 previous fiscal year.

7 (c) After disbursements are made to the exclusive
8 bargaining representative for every collective bargaining unit,
9 any remaining balance in the fund shall be transferred to the
10 general fund."

11 SECTION 3. Section 89-1, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The legislature declares that it is the public policy
14 of the State to promote harmonious and cooperative relations
15 between government and its employees and to protect the public
16 by assuring effective and orderly operations of government.

17 These policies are best effectuated by:

18 (1) Recognizing the right of public employees to organize
19 for the purpose of collective bargaining;

20 (2) Requiring public employers to negotiate with and enter
21 into written agreements with exclusive representatives



1 on matters of wages, hours, and other conditions of
2 employment, while, at the same time, maintaining the
3 merit principle pursuant to section 76-1; [and]

4 (3) Enabling exclusive representatives to maintain
5 financial viability, organizational capacity, and the
6 ability to effectively represent public employees; and

7 [~~3~~] (4) Creating a labor relations board to administer
8 the provisions of chapters 89 and 377."

9 SECTION 4. Section 89-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§89-3 Rights of employees. Employees shall have the
12 right of self-organization and the right to form, join, or
13 assist any employee organization for the purpose of bargaining
14 collectively through representatives of their own choosing on
15 questions of wages, hours, and other terms and conditions of
16 employment, and to engage in lawful, concerted activities for
17 the purpose of collective bargaining or other mutual aid or
18 protection, free from interference, restraint, or coercion. An
19 employee shall have the right to refrain from any or all of such
20 activities [~~except for having a payroll deduction equivalent to~~



1 ~~regular dues remitted to an exclusive representative as provided~~
2 ~~in section 89-4]."~~

3 SECTION 5. Section 89-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§89-4 Payroll deductions. (a) Upon receiving from an
6 exclusive representative a written statement specifying the
7 amount of regular dues required of its members in the
8 appropriate bargaining unit, the employer shall deduct this
9 amount from the payroll of every member employee in the
10 appropriate bargaining unit and remit the amount to the
11 exclusive representative. Additionally, the employer shall
12 deduct ~~[an amount equivalent to the regular dues]~~ from the
13 payroll of every nonmember employee in the appropriate
14 bargaining unit, and shall remit ~~[the amount]~~ to the exclusive
15 representative ~~[, provided that the deduction from the payroll of~~
16 ~~every nonmember employee shall be made only for an exclusive~~
17 ~~representative which provides for a procedure for determining~~
18 ~~the amount of a refund to any employee who demands the return of~~
19 ~~any part of the deduction which represents the employee's pro~~
20 ~~rata share of expenditures made by the exclusive representative~~
21 ~~for activities of a political and ideological nature unrelated~~



1 ~~to terms and conditions of employment. If a nonmember employee~~
2 ~~objects to the amount to be refunded, the nonmember employee may~~
3 ~~petition the board for review thereof within fifteen days after~~
4 ~~notice of the refund has been received.], an amount agreed~~
5 ~~between the nonmember employee and the exclusive representative.~~

6 If an employee organization is no longer the exclusive
7 representative of the appropriate bargaining unit, the deduction
8 from the payroll of members and nonmembers shall terminate.

9 (b) The employer shall, upon written authorization by an
10 employee, executed at any time [~~after the employee's joining an~~
11 ~~employee organization~~], deduct from the payroll of the employee
12 the amount of membership dues, initiation fees, representation
13 fees, group insurance premiums, [~~and~~] or other association
14 benefits, and shall remit the amount to the employee
15 organization designated by the employee.

16 (c) The employer shall continue all payroll assignments
17 authorized by an employee prior to July 1, 1970 and all
18 assignments authorized under subsection (b) until notification
19 is submitted by an employee to discontinue the employee's
20 assignments.



1 (d) The exclusive representative may establish dues,
2 rates, or charges to support its activities and other programs
3 it may choose to provide to members. The exclusive
4 representative may establish rates or charges for services, or
5 other programs it may choose to provide to nonmembers.

6 (e) The public employer shall be entitled to rely on, and
7 shall not be liable for accurately implementing, reports of
8 employees' deductions supplied by the exclusive representative.
9 Any challenge to rates or charges for services shall be within
10 the exclusive original jurisdiction of the board, as a
11 prohibited practice."

12 SECTION 6. Section 89-8, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The employee organization which has been certified by
15 the board as representing the majority of employees in an
16 appropriate bargaining unit shall be the exclusive
17 representative of all employees in the unit. As exclusive
18 representative, it shall have the right to act for and negotiate
19 agreements covering all employees in the unit and shall be
20 responsible for representing the interests of all such employees
21 without discrimination [~~and without regard to employee~~



1 ~~organization membership.] , except that it need not represent~~
2 ~~employees who do not pay reasonable costs of representation.~~
3 Any other provision herein to the contrary notwithstanding,
4 whenever two or more employee organizations which have been duly
5 certified by the board as the exclusive representatives of
6 employees in bargaining units merge, combine, or amalgamate or
7 enter into an agreement for common administration or operation
8 of their affairs, all rights and duties of such employee
9 organizations as exclusive representatives of employees in such
10 units shall inure to and shall be discharged by the organization
11 resulting from such merger, combination, amalgamation, or
12 agreement, either alone or with such employee organizations.
13 Election by the employees in the unit involved, and
14 certification by the board of such resulting employee
15 organization shall not be required."

16 SECTION 7. Section 89-3.5, Hawaii Revised Statutes, is
17 repealed.

18 [~~"§89-3.5 Religious exemption from support of employee~~
19 ~~organization. Notwithstanding any other provision of law to the~~
20 ~~contrary, any employee who is a member of and adheres to~~
21 ~~established and traditional tenets or teachings of a bona fide~~



1 ~~religion, body, or sect which has historically held~~
2 ~~conscientious objections to joining or financially supporting~~
3 ~~employee organizations shall not be required to join or~~
4 ~~financially support any employee organization as a condition of~~
5 ~~employment; except that an employee may be required in a~~
6 ~~contract between an employee's employer and employee~~
7 ~~organization in lieu of periodic dues and initiation fees, to~~
8 ~~pay sums equal to the dues and initiation fees to a~~
9 ~~nonreligious, nonlabor organization charitable fund exempt from~~
10 ~~taxation under section 501(c)(3) of the Internal Revenue Code,~~
11 ~~chosen by the employee from a list of at least three funds,~~
12 ~~designated in the contract or if the contract fails to designate~~
13 ~~any funds, then to any fund chosen by the employee. If an~~
14 ~~employee who holds conscientious objections pursuant to this~~
15 ~~section requests the employee organization to use the grievance-~~
16 ~~arbitration procedure on the employee's behalf, the employee~~
17 ~~organization is authorized to charge the employee for the~~
18 ~~reasonable cost of using the procedure."]~~

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon the
2 ratification of an amendment to article XIII of the Constitution
3 of the State of Hawaii that would establish a collective
4 bargaining fund for the representation of public employees in
5 collective bargaining negotiations.

6

INTRODUCED BY:

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JAN 22 2016



H.B. NO. 1886

Report Title:

Collective Bargaining; Public Employees

Description:

Establishes the Public Employees' Collective Bargaining Fund. Requires the deposit of not less than the amount equal to an undisclosed percentage of the total compensation provided to all public employees during the previous fiscal year. Amends the rights of public employee elective representation and deductions for nonmembers. Repeals the religious exemption from support of employee organization. Takes effect upon ratification of constitutional amendment.

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

