
A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1 SECTION 1. Section 89-9, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsection (a) to read:
4 "(a) The employer and the exclusive representative shall
5 meet at reasonable times, including meetings sufficiently in
6 advance of the February 1 impasse date under section 89-11, and
7 shall negotiate in good faith with respect to wages, hours, the
8 amounts of contributions by the State and respective counties to
9 the Hawaii employer-union health benefits trust fund to the
10 extent allowed in subsection (e), and other terms and conditions
11 of employment [~~which~~] that are subject to collective bargaining
12 and [~~which~~] that are to be embodied in a written agreement as
13 specified in section 89-10 [~~, but such~~]; provided that the
14 obligation [~~does~~] to meet and negotiate shall not compel either
15 party to agree to a proposal or make a concession."
16 2. By amending subsection (e) to read:



1 "(e) Negotiations relating to contributions to the Hawaii
2 employer-union health benefits trust fund shall be for the
3 purpose of agreeing upon the amounts [~~which~~] that the State and
4 counties shall contribute under section 87A-32, toward the
5 payment of the costs for a health benefits plan, as defined in
6 section 87A-1, and group life insurance benefits [~~, and~~];
7 provided that the parties shall not be bound by the amounts
8 contributed under prior agreements [~~, provided that section 89-11~~
9 ~~for the resolution of disputes by way of arbitration shall not~~
10 ~~be available to resolve impasses or disputes relating to the~~
11 ~~amounts the State and counties shall contribute to the Hawaii~~
12 ~~employer union health benefits trust fund]."~~

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

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

16 "(e) If an impasse exists between a public employer and
17 the exclusive representative of bargaining unit (2), supervisory
18 employees in blue collar positions; bargaining unit (3),
19 nonsupervisory employees in white collar positions; bargaining
20 unit (4), supervisory employees in white collar positions;
21 bargaining unit (6), educational officers and other personnel of



1 the department of education under the same salary schedule;
2 bargaining unit (8), personnel of the University of Hawaii and
3 the community college system, other than faculty; bargaining
4 unit (9), registered professional nurses; bargaining unit (10),
5 institutional, health, and correctional workers; bargaining unit
6 (11), firefighters; bargaining unit (12), police officers;
7 bargaining unit (13), professional and scientific employees; or
8 bargaining unit (14), state law enforcement officers and state
9 and county ocean safety and water safety officers, the board
10 shall assist in the resolution of the impasse as follows:

11 (1) Mediation. During the first twenty days after the
12 date of impasse, the board shall immediately appoint a
13 mediator, representative of the public from a list of
14 qualified persons maintained by the board, to assist
15 the parties in a voluntary resolution of the impasse.

16 (2) Arbitration. If the impasse continues twenty days
17 after the date of impasse, the board shall immediately
18 notify the employer and the exclusive representative
19 that the impasse shall be submitted to a three-member
20 arbitration panel who shall follow the arbitration
21 procedure provided herein.



1 (A) Arbitration panel. Two members of the
2 arbitration panel shall be selected by the
3 parties; one shall be selected by the employer
4 and one shall be selected by the exclusive
5 representative. The neutral third member of the
6 arbitration panel, who shall chair the
7 arbitration panel, shall be selected by mutual
8 agreement of the parties. In the event that the
9 parties fail to select the neutral third member
10 of the arbitration panel within thirty days from
11 the date of impasse, the board shall [~~request the~~
12 ~~American Arbitration Association, or its~~
13 ~~successor in function, to~~] furnish a list of five
14 qualified arbitrators, which includes arbitrators
15 from the State, maintained by the board, from
16 which the neutral arbitrator shall be selected.
17 Within five days after receipt of the list, the
18 parties shall alternately strike names from the
19 list until a single name is left, who shall be
20 immediately appointed by the board as the neutral



1 arbitrator and chairperson of the arbitration
2 panel.

3 (B) Final positions. Upon the selection and
4 appointment of the arbitration panel, each party
5 shall submit to the panel, in writing, with copy
6 to the other party, a final position that shall
7 include all provisions in any existing collective
8 bargaining agreement not being modified, all
9 provisions already agreed to in negotiations, and
10 all further provisions which each party is
11 proposing for inclusion in the final agreement;
12 provided that such further provisions shall be
13 limited to those specific proposals that were
14 submitted in writing to the other party and were
15 the subject of collective bargaining between the
16 parties up to the time of the impasse, including
17 those specific proposals that the parties have
18 decided to include through a written mutual
19 agreement. The arbitration panel shall decide
20 whether final positions are compliant with this



1 provision and which proposals may be considered
2 for inclusion in the final agreement.

3 (C) Arbitration hearing. Within one hundred twenty
4 days of its appointment, the arbitration panel
5 shall commence a hearing at which time the
6 parties may submit either in writing or through
7 oral testimony, all information or data
8 supporting their respective final positions. The
9 arbitrator, or the chairperson of the arbitration
10 panel together with the other two members, are
11 encouraged to assist the parties in a voluntary
12 resolution of the impasse through mediation, to
13 the extent practicable throughout the entire
14 arbitration period until the date the panel is
15 required to issue its arbitration decision.

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



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

11 2. By amending subsection (g) to read:

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



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



1 and by mutual agreement, may amend or modify the panel's
2 decision.

3 Agreements reached pursuant to the decision of an
4 arbitration panel and the amounts of contributions by the State
5 and counties to the Hawaii employer-union health benefits trust
6 fund, as provided herein, shall not be subject to ratification
7 by the employees concerned. All items requiring any moneys for
8 implementation shall be subject to appropriations by the
9 appropriate legislative bodies and the employer shall submit all
10 such items within ten days after the date on which the agreement
11 is entered into as provided herein, to the appropriate
12 legislative bodies."

13 SECTION 3. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on March 15, 2038.



Report Title:

Collective Bargaining; EUTF

Description:

Repeals provision providing that arbitration shall not be available to resolve disputes regarding EUTF contributions by State and counties. Amends the selection of the neutral third member of the arbitration panel. Effective 3/15/2038. (HD2)

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