

JAN 20 2016

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1 SECTION 1. The legislature finds that including department
2 of education principals and vice-principals in bargaining unit
3 (6) is inappropriate because principals and vice-principals
4 fulfill a managerial role within each school. As members of the
5 department of education administrative team, principals and
6 vice-principals are obligated and accountable for carrying out
7 the directions and policies of the superintendent of education.
8 Principals and vice-principals exercise independent judgment in
9 the interest of their employer, the board of education, to hire,
10 transfer, suspend, promote, discharge, assign, reward, and
11 discipline other employees. Further, principals and vice-
12 principals handle grievances of other employees. Because the
13 exercise of this authority is not of a merely routine or
14 clerical nature, principals and vice-principals are not
15 appropriate members of a collective bargaining unit. The
16 superintendent of education should be able to exert direct
17 control over the managers of schools, and therefore, it would be



1 more appropriate for the positions of principal and vice-
2 principal to be filled through appointment by the superintendent
3 and confirmation by the board of education.

4 The legislature finds that removing principals and vice-
5 principals from bargaining unit (6) is in the best interests of
6 the State. Due to the limited financial resources of the State,
7 it is of paramount importance and in the best interests of the
8 department of education to ensure efficient and responsible
9 expenditure of state funds by making the managers of schools,
10 principals and vice-principals, empowered by and accountable to
11 the superintendent of education. This Act will improve the
12 financial efficiency and accountability of principals and vice-
13 principals while clearly distinguishing their important role
14 from the department of education employees that they manage.

15 The purpose of this Act is to promote educational
16 performance by removing department of education principals and
17 vice-principals from bargaining unit (6).

18 SECTION 2. Section 89-6, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:



1 "(a) All employees throughout the State within any of the
2 following categories shall constitute an appropriate bargaining
3 unit:

- 4 (1) Nonsupervisory employees in blue collar positions;
- 5 (2) Supervisory employees in blue collar positions;
- 6 (3) Nonsupervisory employees in white collar positions;
- 7 (4) Supervisory employees in white collar positions;
- 8 (5) Teachers and other personnel of the department of
9 education under the same pay schedule, including part-
10 time employees working less than twenty hours a week
11 who are equal to one-half of a full-time equivalent;
- 12 (6) Educational officers and other personnel of the
13 department of education under the same pay
14 schedule[+], excluding principals and vice-principals;
- 15 (7) Faculty of the University of Hawaii and the community
16 college system;
- 17 (8) Personnel of the University of Hawaii and the
18 community college system, other than faculty;
- 19 (9) Registered professional nurses;
- 20 (10) Institutional, health, and correctional workers;
- 21 (11) Firefighters;



1 (12) Police officers;

2 (13) Professional and scientific employees, who cannot be
3 included in any of the other bargaining units; and

4 (14) State law enforcement officers and state and county
5 ocean safety and water safety officers."

6 SECTION 3. Section 89-11, Hawaii Revised Statutes, is
7 amended by amending subsection (e) to read as follows:

8 "(e) If an impasse exists between a public employer and
9 the exclusive representative of bargaining unit (2), supervisory
10 employees in blue collar positions; bargaining unit (3),
11 nonsupervisory employees in white collar positions; bargaining
12 unit (4), supervisory employees in white collar positions;
13 bargaining unit (6), educational officers and other personnel of
14 the department of education under the same ~~[salary]~~ pay
15 schedule[+], excluding principals and vice-principals;
16 bargaining unit (8), personnel of the University of Hawaii and
17 the community college system, other than faculty; bargaining
18 unit (9), registered professional nurses; bargaining unit (10),
19 institutional, health, and correctional workers; bargaining unit
20 (11), firefighters; bargaining unit (12), police officers;
21 bargaining unit (13), professional and scientific employees; or



1 bargaining unit (14), state law enforcement officers and state
2 and county ocean safety and water safety officers, the board
3 shall assist in the resolution of the impasse as follows:

4 (1) Mediation. During the first twenty days after the
5 date of impasse, the board shall immediately appoint a
6 mediator, representative of the public from a list of
7 qualified persons maintained by the board, to assist
8 the parties in a voluntary resolution of the impasse.

9 (2) Arbitration. If the impasse continues twenty days
10 after the date of impasse, the board shall immediately
11 notify the employer and the exclusive representative
12 that the impasse shall be submitted to a three-member
13 arbitration panel who shall follow the arbitration
14 procedure provided herein.

15 (A) Arbitration panel. Two members of the
16 arbitration panel shall be selected by the
17 parties; one shall be selected by the employer
18 and one shall be selected by the exclusive
19 representative. The neutral third member of the
20 arbitration panel, who shall chair the
21 arbitration panel, shall be selected by mutual



1 agreement of the parties. In the event that the
2 parties fail to select the neutral third member
3 of the arbitration panel within thirty days from
4 the date of impasse, the board shall request the
5 American Arbitration Association, or its
6 successor in function, to furnish a list of five
7 qualified arbitrators from which the neutral
8 arbitrator shall be selected. Within five days
9 after receipt of the list, the parties shall
10 alternately strike names from the list until a
11 single name is left, who shall be immediately
12 appointed by the board as the neutral arbitrator
13 and chairperson of the arbitration panel.

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



1 proposing for inclusion in the final agreement;
2 provided that such further provisions shall be
3 limited to those specific proposals that were
4 submitted in writing to the other party and were
5 the subject of collective bargaining between the
6 parties up to the time of the impasse, including
7 those specific proposals that the parties have
8 decided to include through a written mutual
9 agreement. The arbitration panel shall decide
10 whether final positions are compliant with this
11 provision and which proposals may be considered
12 for inclusion in the final agreement.

13 (C) Arbitration hearing. Within one hundred twenty
14 days of its appointment, the arbitration panel
15 shall commence a hearing at which time the
16 parties may submit either in writing or through
17 oral testimony, all information or data
18 supporting their respective final positions. The
19 arbitrator, or the chairperson of the arbitration
20 panel together with the other two members, are
21 encouraged to assist the parties in a voluntary



1 resolution of the impasse through mediation, to
2 the extent practicable throughout the entire
3 arbitration period until the date the panel is
4 required to issue its arbitration decision.

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



1 SECTION 4. Section 302A-620, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There shall be established a
4 classification/compensation appeals board within the department
5 for administrative purposes. The appeals board shall be
6 composed of three members ~~[-]~~ as follows:

7 (1) One member ~~[shall be]~~ appointed by the board of
8 education ~~[and one]~~ ;

9 (2) One member appointed by the exclusive representative
10 for the bargaining unit representing educational
11 officers ~~[- The third]~~ ; and

12 (3) One member ~~[shall be]~~ appointed by the governor ~~[and~~
13 ~~shall]~~ to serve as chairperson.

14 No member shall be an employee of the department, a member
15 of the board of education, or an employee of the organization
16 representing educational officers. The appeals board shall sit
17 as an appellate body on matters of classification/compensation.
18 All decisions of the appeals board shall be by majority vote and
19 be binding on both parties."

20 SECTION 5. Section 302A-623, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[+]~~ §302A-623 ~~[+]~~ Salary ranges, educational officers. (a)
2 Salary ranges for educational officer positions of the
3 department other than principal and vice-principal positions,
4 shall be determined by the board based on the position
5 classification/compensation plan approved by the board. Salary
6 ranges for educational officer positions shall be subject to the
7 requirements of sections 302A-625 and 302A-626.

8 (b) Salary ranges for principals and vice-principal
9 positions shall be determined by the board pursuant to section
10 302A-703."

11 SECTION 6. Section 302A-625, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§302A-625 Educational officers' salary schedules. The
14 salary schedule for all ~~[educational officers of the department]~~
15 personnel assigned to the bargaining unit established pursuant
16 to section 89-6(a)(6) (educational officers and other personnel
17 of the department of education under the same pay schedule,
18 excluding principals and vice-principals), shall be negotiated
19 pursuant to section 89-9."

20 SECTION 7. Section 302A-626, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) Teachers and educational officers who have served
2 satisfactorily for three years in their maximum increment step
3 or in any longevity step and who have complied with the other
4 requirements of sections 302A-602 to 302A-639, and 302A-701,
5 shall receive longevity step increases; provided that the board
6 may grant principals and vice-principals longevity step
7 increases more frequently than once every three years [~~pursuant~~
8 ~~to section 302A-625~~]."

9 SECTION 8. Section 302A-631, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Principals and vice-principals at special needs
12 schools shall be provided additional benefits by the department
13 [~~pursuant to section 302A-625~~]. As used in this subsection,
14 "special needs schools" means those schools having a relatively
15 large proportion of students exhibiting low performance, as
16 indicated by such factors as low standardized achievement test
17 scores, a high retention rate, and a low graduation rate for the
18 area."

19 SECTION 9. Section 302A-703, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " [†] §302A-703 [†] ~~Educational~~ Principals, vice-principals,
2 and educational officers[7]; salary ranges and salary

3 incentives. (a) The salary ranges for principal and vice-
4 principal positions shall be determined by the board, based on
5 the position classification/compensation plan approved by the
6 board and salary incentives designed to:

7 (1) Keep exemplary principals and vice-principals at the
8 school level;

9 (2) Encourage exemplary principals and vice-principals to
10 accept long-term assignments to hard-to-staff schools,
11 special needs schools, and schools with high teacher
12 turnover;

13 (3) Encourage exemplary teachers to become vice-
14 principals;

15 (4) Encourage exemplary vice-principals to become
16 principals; and

17 (5) Encourage exemplary educational officers to become
18 vice-principals.

19 (b) The department shall develop a definition of
20 "exemplary" in consultation with the appropriate collective
21 bargaining representative.

1 (c) Salary [~~ranges and salary~~] incentives for educational
2 officer positions other than principal and vice-principal
3 positions shall be subject to the requirements of sections 302A-
4 625 and 302A-626."

5 SECTION 10. The exclusion of public school principals and
6 vice-principals from bargaining unit (6) shall commence upon the
7 expiration of the collective bargaining agreement between the
8 board of education and the exclusive representative of
9 bargaining unit (6) that was in force and effect on the
10 effective date of this Act.

11 SECTION 11. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 12. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 13. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



S.B. NO. 2023

1 SECTION 14. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Clemente R. Reschke*



S.B. NO. 2023

Report Title:

Collective Bargaining Unit (6); Principals and Vice-Principals;
Exclusion

Description:

Excludes principals and vice-principals of DOE from bargaining
unit (6).

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

