

JAN 22 2016

A BILL FOR AN ACT

RELATING TO THE RIGHT TO WORK.

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

1 SECTION 1. The legislature finds that mandatory union
2 membership diminishes personal liberty. All people should have
3 the right to work without being forced to join a private union.
4 Further, the practice of employers collecting membership dues
5 and fees for unions is improper. A number of legal challenges to
6 mandatory union membership have been brought by employees across
7 the nation. In light of these challenges, this state shall join
8 the twenty four existing right-to-work states by allowing
9 employees to opt-out of mandatory union membership and prohibit
10 employers from collecting union dues and assessments.

11 SECTION 2. Section 377-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§377-4 Rights of employees.** Employees shall have the
14 right of self-organization and the right to form, join, or
15 assist labor organizations, to bargain collectively through
16 representatives of their own choosing, and to engage in lawful,
17 concerted activities for the purpose of collective bargaining or



1 other mutual aid or protection, and such employees shall also
2 have the right to refrain from any and all such activities[
3 ~~provided that employees may be required to join a union under an~~
4 ~~all-union agreement as provided in section 377-6(3).]~~"

5 SECTION 3. Section 377-4.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§377-4.5 Religious exemption from labor organization**
8 **membership.** Notwithstanding any other provision of law to the
9 contrary, any employee who is a member of and adheres to
10 established and traditional tenets or teachings of a bona fide
11 religion, body, or sect which has historically held
12 conscientious objections to joining or financially supporting
13 labor organizations shall not be required to join or financially
14 support any labor organization as a condition of employment;
15 except that an employee may be required in a contract between an
16 employees' employer and a labor organization in lieu of periodic
17 dues and initiation fees, to pay sums equal to the dues and
18 initiation fees to a nonreligious, nonlabor organization
19 charitable fund exempt from taxation under section 501(c)(3) of
20 the Internal Revenue Code, chosen by an employee from a list of
21 at least three funds, designated in the contract or if the



1 contract fails to designate any funds, then to any fund chosen
2 by the employee. [~~If any employee who holds conscientious
3 objections pursuant to this section requests the labor
4 organization to use the grievance arbitration procedure on the
5 employee's behalf, the labor organization is authorized to
6 charge the employee for the reasonable cost of using the
7 procedure.]"~~

8 SECTION 4. Section 377-6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§377-6 Unfair labor practices of employers.** It shall be
11 an unfair labor practice for an employer individually or in
12 concert with others:

13 (1) To interfere with, restrain, or coerce the employer's
14 employees in the exercise of the rights guaranteed in
15 section 377-4;

16 (2) To initiate, create, dominate, or interfere with the
17 formation or administration of any labor organization
18 or contribute financial support to it, but an employer
19 shall not be prohibited from reimbursing employees at
20 their prevailing wage rate for time spent conferring
21 with the employer, nor from cooperating with



1 representatives of at least a majority of the
2 employer's employees in a collective bargaining unit,
3 at their request, by permitting employee
4 organizational activities on employer premises or the
5 use of employer facilities where the activities or use
6 create no additional expense to the employer;

7 (3) To encourage or discourage membership in any labor
8 organization by discrimination in regard to hiring,
9 tenure, or other terms or conditions of employment.
10 ~~[An employer, however, may enter into an all-union~~
11 ~~agreement with the bargaining representative of the~~
12 ~~employer's employees in a collective bargaining unit,~~
13 ~~unless the board has certified that at least a~~
14 ~~majority of the employees have voted to rescind the~~
15 ~~authority of their bargaining representative to~~
16 ~~negotiate such all-union agreement within one year~~
17 ~~preceding the date of the agreement. No employer~~
18 ~~shall justify any discrimination against any employee~~
19 ~~for nonmembership in a labor organization if the~~
20 ~~employer has reasonable grounds for believing that:~~



1 ~~(A) Such membership was not available to the employee~~
2 ~~on the same terms and conditions generally~~
3 ~~applicable to other members;~~

4 ~~(B) Or that membership was denied or terminated for~~
5 ~~reasons other than the failure of the employee to~~
6 ~~tender periodic dues and the initiation fees~~
7 ~~uniformly required as a condition for acquiring~~
8 ~~or retaining membership;~~

9 (4) To refuse to bargain collectively with the
10 representative of a majority of the employer's
11 employees in any collective bargaining unit provided
12 that if the employer has good faith doubt that a union
13 represents a majority of the employees, the employer
14 may file a representation petition for an election and
15 shall not be deemed guilty of refusal to bargain;

16 (5) To bargain collectively with the representatives of
17 less than a majority of the employer's employees in a
18 collective bargaining unit, or to enter into an all-
19 union agreement [~~except in the manner provided in~~
20 ~~paragraph (3)~~];



- 1 (6) To violate the terms of a collective bargaining
2 agreement;
- 3 (7) To refuse or fail to recognize or accept as conclusive
4 of any issue in any controversy as to employment
5 relations the final determination of the board or of
6 any tribunal of competent jurisdiction;
- 7 (8) To discharge or otherwise discriminate against an
8 employee because the employee has filed charges or
9 given information or testimony under the provisions of
10 this chapter;
- 11 (9) To deduct labor organization dues or assessments from
12 an employee's earnings[, ~~unless the employer has been~~
13 ~~presented with an individual order therefor, signed by~~
14 ~~the employee personally~~];
- 15 (10) To employ any person to spy upon employees or their
16 representatives respecting their exercise of any right
17 created or approved by this chapter;
- 18 (11) To make, circulate, or cause to be circulated a
19 blacklist;



1 (12) To offer or grant permanent employment to an
2 individual for performing work as a replacement for a
3 bargaining unit member during a labor dispute; or

4 (13) Based on employment or willingness to be employed
5 during a labor dispute, to give employment preference
6 to one person over another who:

7 (A) Was an employee at the commencement of the
8 dispute;

9 (B) Exercised the right to join, assist, or engage in
10 lawful collective bargaining or mutual aid or
11 protection through the labor organization engaged
12 in the dispute; and

13 (C) Continues to work for or has unconditionally
14 offered to return to work for the employer. "

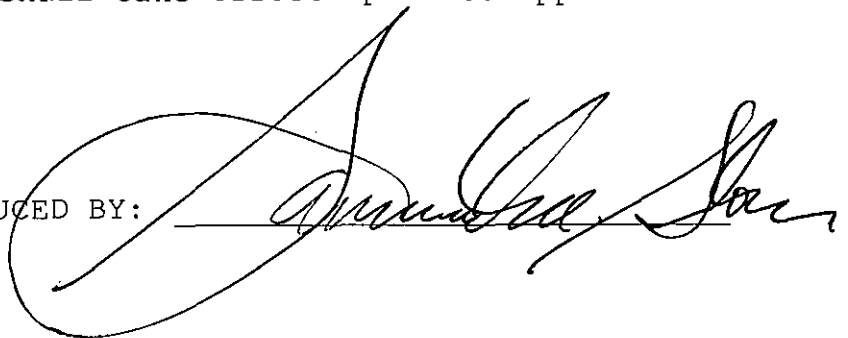
15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken.

17 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:



S.B. NO. 2717

Report Title:

Preserving Right to Work; Freedom from Forced Union Membership

Description:

Grants employee the right to refrain from mandatory union membership. Preserves the right to collective bargaining, mutual aid and other employee protections.

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

