

JAN 20 2017

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# 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 by amending subsection (d) to read as follows:

3           "(d) Excluded from the subjects of negotiations are  
4 matters of classification, reclassification, benefits of but not  
5 contributions to the Hawaii employer-union health benefits trust  
6 fund, recruitment, examination, initial pricing, and retirement  
7 benefits except as provided in section 88-8(h). The employer  
8 and the exclusive representative shall not agree to any proposal  
9 which would be inconsistent with the merit principle or the  
10 principle of equal pay for equal work pursuant to section 76-1  
11 or which would interfere with the rights and obligations of a  
12 public employer to:

- 13           (1) Direct employees;
- 14           (2) Determine qualifications, standards for work, and the  
15 nature and contents of examinations;
- 16           (3) Hire, promote, transfer, assign, and retain employees  
17 in positions;



- 1           (4) Suspend, demote, discharge, or take other disciplinary  
2                    action against employees for proper cause;
- 3           (5) Relieve an employee from duties because of lack of  
4                    work or other legitimate reason;
- 5           (6) Maintain efficiency and productivity, including  
6                    maximizing the use of advanced technology, in  
7                    government operations;
- 8           (7) Determine methods, means, and personnel by which the  
9                    employer's operations are to be conducted; and
- 10          (8) Take such actions as may be necessary to carry out the  
11                missions of the employer in cases of emergencies.

12           This subsection shall not be used to invalidate provisions  
13 of collective bargaining agreements in effect on and after June  
14 30, 2007, and shall not preclude negotiations over either the  
15 procedures and criteria on promotions, transfers, assignments,  
16 demotions, layoffs, suspensions, terminations, discharges, or  
17 other disciplinary actions [~~as a permissive subject of~~  
18 ~~bargaining~~] or the implementation by the employer of paragraphs  
19 (1) through (8), if it affects terms and conditions of  
20 employment, during collective bargaining negotiations or



1 negotiations over a memorandum of agreement, memorandum of  
2 understanding, or other supplemental agreement.

3 Violations of the procedures [~~and~~], criteria, and  
4 implementation so negotiated may be subject to the grievance  
5 procedure in the collective bargaining agreement."

6 SECTION 2. Section 89-13, Hawaii Revised Statutes, is  
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) It shall be a prohibited practice for a public  
9 employer or its designated representative [~~wilfully~~] to:

- 10 (1) Interfere, restrain, or coerce any employee in the  
11 exercise of any right guaranteed under this chapter;
- 12 (2) Dominate, interfere, or assist in the formation,  
13 existence, or administration of any employee  
14 organization;
- 15 (3) Discriminate in regard to hiring, tenure, or any term  
16 or condition of employment to encourage or discourage  
17 membership in any employee organization;
- 18 (4) Discharge or otherwise discriminate against an  
19 employee because the employee has signed or filed an  
20 affidavit, petition, or complaint or given any  
21 information or testimony under this chapter, or



- 1           because the employee has informed, joined, or chosen  
2           to be represented by any employee organization;
- 3           (5) Refuse to bargain collectively in good faith with the  
4           exclusive representative as required in section 89-9;
- 5           (6) Refuse to participate in good faith in the mediation  
6           and arbitration procedures set forth in section 89-11;
- 7           (7) Refuse or fail to comply with any provision of this  
8           chapter;
- 9           (8) Violate the terms of a collective bargaining  
10          agreement;
- 11          (9) Replace any nonessential employee for participating in  
12          a labor dispute; or
- 13          (10) Give employment preference to an individual employed  
14          during a labor dispute and whose employment  
15          termination date occurs after the end of the dispute,  
16          over an employee who exercised the right to join,  
17          assist, or engage in lawful collective bargaining or  
18          mutual aid or protection through the labor  
19          organization involved in the dispute.



1           (b) It shall be a prohibited practice for a public  
2 employee or for an employee organization or its designated agent  
3 [~~wilfully~~] to:

4           (1) Interfere, restrain, or coerce any employee in the  
5 exercise of any right guaranteed under this chapter;

6           (2) Refuse to bargain collectively in good faith with the  
7 public employer, if it is an exclusive representative,  
8 as required in section 89-9;

9           (3) Refuse to participate in good faith in the mediation  
10 and arbitration procedures set forth in section 89-11;

11           (4) Refuse or fail to comply with any provision of this  
12 chapter; or

13           (5) Violate the terms of a collective bargaining  
14 agreement."

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

18           SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



# S.B. NO. 410

1 SECTION 5. This Act shall take effect on July 1, 2017.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "DC Phil Agan", is written over a horizontal line. The signature is stylized and includes a large loop at the end.



# S.B. NO. 410

**Report Title:**

Collective Bargaining; Negotiations; Prohibited Practices

**Description:**

Clarifies the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer. Clarifies prohibited practices for parties to a public employment collective bargaining agreement.

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

