

**"CHAPTER 382**  
**LABOR DISPUTES; STEVEDORING INDUSTRY**

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" **§382-1 Definitions.** As used in this chapter unless the context clearly indicates otherwise:

"Company" and "stevedoring company" mean any persons engaged in the stevedoring industry as an employer whether in the business of furnishing stevedoring services or related services or both.

"Employee" means any person employed by an employer.

"Employer" means any person who employs the services of employees in the stevedoring industry, but shall not include the State or any agency thereof.

"Industrial dispute" and "labor dispute" mean any controversy concerning wages, hours, or other terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange wages, hours, or other terms or conditions of employment.

"Labor organization" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning wages, hours, and other terms and conditions of employment.

"Lockout" means the refusal of an employer to furnish work to employees as the result of a labor dispute between the employer and its employees.

"Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, or receivers.

"Related services" means and includes all services, other than stevedoring services, ordinarily or necessarily performed in regard to cargo, goods, wares, and merchandise of every kind arriving at a terminal facility for shipment by or discharge from vessels and other craft; and "related facilities" means and includes all facilities in connection therewith.

"Stevedoring industry" means the business of furnishing services for the loading and unloading of cargo transported or to be transported on vessels and other craft, at any ports within the State, and also means the business of furnishing related services, as herein defined.

"Stevedoring services" means services for the loading and unloading of cargo transported or to be transported on vessels and other craft and the handling of lines of vessels and other craft, at any ports within the State.

"Strike" means the temporary stoppage of work, slowdown, or retarding of production or operations by the concerted action of employees.

"Terminal facility" means any dock, wharf, pier, quay, bulkhead, or landing, with the appurtenances thereto, and any

warehouse used in connection therewith. [L 1951, c 209, §2; RL 1955, §92-2; HRS §382-1]

### Revision Note

Numeric designations deleted and definitions rearranged pursuant to §23G-15.

### Case Notes

"Labor dispute" referred to. 46 H. 140, 377 P.2d 715 (1962).

" **§382-2 Proclamation of emergency; preparations for government operations.** (a) Whenever the governor finds that the public health, safety, or welfare has been impaired or imperiled and a state emergency created as a result of the interruption in the furnishing of services by the stevedoring industry, whether the interruption has been caused by an industrial dispute or otherwise, the governor may issue a proclamation declaring the existence of the emergency and the governor's intention to exercise the governor's powers under section 382-3.

(b) Before or after the issuance of the proclamation the governor may make such preparations as the governor deems necessary or proper to carry out section 382-3. [L 1951, c 209, §3; RL 1955, §92-3; HRS §382-2; gen ch 1985]

" **§382-3 Government operations.** After the issuance of a proclamation pursuant to section 382-2 and during the emergency thereby proclaimed, the governor may seize and take possession of and operate the entire plant and facilities, including related facilities, of any stevedoring company whose operations are suspended or substantially reduced, or so much thereof, or such interest therein, as the governor may deem necessary in order to carry out the purposes of this chapter.

Such government operations may be conducted by the governor through such department or agency of the State as the governor may designate and the governor may delegate to such agency such of the governor's powers as are necessary to conduct the operations.

The governor shall have such power and authority as shall be reasonably necessary to conduct such government operations in a manner consistent with the public health, safety, and welfare, including, without limitation upon the generality of the foregoing, the power to make such contracts and arrangements with ship owners, charterers, agents, and operators, wharf and pier owners and operators, stevedoring companies, trucking

operators, warehouse workers and other persons as may be required in order to provide stevedoring services and related services. The governor may make contracts without regard to chapter 103D and sections 103-50, 103-50.5, 103-53, and 103-55 and, specifically, the certificate of the comptroller as to the availability of an unexpended appropriation or balance of an appropriation to cover the amount required by any such contract shall not be required. [L 1951, c 209, pt of §4; RL 1955, §92-4; am L 1957, c 152, §1; HRS §382-3; gen ch 1985; am L Sp 1993, c 8, §57; gen ch 1993; am L 1999, c 149, §26]

#### Note

Section 103-50.5 referred to in text is repealed.

" **§382-4 Employees under government operation.** In operating the plant and facilities of each company the governor, so far as possible and to the extent employees are needed, shall employ the personnel employed by the company upon the seizure and taking of possession thereof or immediately prior to the disruption of service by the company, including employees on strike or locked out, if the disruption is due to a strike or lockout. Persons so employed by the governor or otherwise employed by the governor shall not by reason of such employment be or become entitled to civil service, retirement, vacation, or other benefits provided by law for other employees of the State, nor shall they be required to possess the qualifications of other government employees, and no person shall be ineligible for employment by reason of the fact that the person is not a citizen of the United States or a resident of the State; provided that if it is necessary to employ persons who were not theretofore employed by the company, those persons shall possess the residence qualifications prescribed by section 78-1.

The salaries and wage rates of the persons employed by the State shall be the same as those which existed in the industry immediately prior to the disruption of service occasioning the emergency. There shall be no deductions from such salaries and wages except as authorized by law in the case of other state employees. The hours of employment shall be the same as existed in the industry immediately prior to the disruption of service and insofar as possible the other conditions of employment shall be the same as then existed, and neither the governor nor the designated agency shall have authority to enter into negotiations with any such company or with any labor organization for a collective bargaining contract with respect to wages, hours, and other terms and conditions of employment in the industry. All services performed in the employ of the State

in government operations under this chapter shall constitute employment for the purposes of chapters 383 and 386 and to the extent of the services the State shall be deemed an employer within the meaning of such chapters and shall make the contributions required of a new employer as prescribed by chapter 383. [L 1951, c 209, pt of §4; RL 1955, §92-5; HRS §382-4; gen ch 1985; am L 2006, c 48, §6]

" **§382-5 Stevedoring fund; compensation for appropriation and use.** There is appropriated from the general revenues of the State sufficient moneys as may be necessary, from time to time, for expenditure by or under the direction of the governor for any and all purposes of this chapter and the operations of the government under this chapter, including, without limitation of the generality of the foregoing, the compensation of employees and for other personal services, other current expenses, insurance, and expenditures for the performance of any and all contracts and arrangements authorized by this chapter; provided that the governor may not expend in excess of \$250,000 by this method. The governor may further augment the appropriation from the governor's contingent fund and in addition thereto may cause to be expended from the general fund as a loan or loans further amounts from time to time as required for the purposes of this chapter, but the amount of such further loans outstanding at any one time shall not exceed \$250,000. Expenditures may be made by or under the direction of the governor or the governor may allot any money not to exceed the maximums provided in this section to the designated agency for expenditure upon its own vouchers.

Charges shall be made and collected for deposit into the treasury of the State. The charges so far as possible shall be based upon the rates prevailing in the industry immediately prior to the disruption of service, but due consideration shall be given to current conditions, including the expenses and other costs incurred or which may be incurred by the State under this chapter. From time to time the governor shall pay from the general fund to each company whose property has been appropriated just compensation for the appropriation and use of its property. If any company is unwilling to accept the amount determined by the governor as full and complete compensation for appropriation and use, the company shall be paid fifty per cent of the amount so determined by the governor and shall be entitled to sue the State, in the manner provided in chapter 661 for such additional sum as, when added to the sum already received by the company, shall constitute just compensation for the appropriation and use of its property; provided that the suit shall be instituted within three months after the termination of the appropriation and use. [L 1951, c 209, pt of

§4; RL 1955, §92-6; am L 1964, c 46, §2; HRS §382-5; gen ch 1985]

" **§382-6 Termination of government operations.** Whenever the governor finds that any company whose plant or facilities are being operated by the State is in a position to resume immediately and continue the operation of its plants and facilities without interruption, or that government operation of the plant or facilities of any company is no longer required for the public health, safety, and welfare, the governor shall terminate government operation of the plant and facilities and shall restore the same to the company. [L 1951, c 209, §5; RL 1955, §92-7; HRS §382-6; gen ch 1985]

" **§382-7 Interference with government operations; injunctions.** (a) All persons employed by the governor under sections 382-3 to 382-5 shall be deemed government employees within the meaning of sections 86-1 to 86-6 and such sections shall be applicable to the operations under sections 382-3 to 382-5.

(b) After a proclamation of an emergency pursuant to section 382-2 and until the termination of government operations as provided by section 382-6, it shall be unlawful for:

- (1) Any private employee or labor organization to engage in a strike, or a concerted refusal to transport or otherwise handle any cargo or to perform services on any vessel or with respect to any facility;
- (2) Any persons to concert to withhold patronage, employment, or other beneficial business intercourse; or
- (3) Any person, with a purpose of instigating, inducing, procuring, bringing about, coercing, or inciting any such strike or concerted action or a continuation thereof, to picket or to establish or maintain a picket line of one or more persons, where an object of any such strike, concerted action, or picketing is to:
  - (A) Interfere with government operations under this chapter;
  - (B) Force or require any person to cease transporting or otherwise handling cargo with respect to which stevedoring services or related services have been or are to be performed by the government under this chapter; or
  - (C) Cause loss, injury, or damage to any person by reason of the person's having transported or otherwise handled or being about to transport or otherwise handle any cargo with respect to which

stevedoring services or related services have been or are to be performed by the government under this chapter;

provided that in the case of an emergency arising out of a labor dispute in the stevedoring industry, this subsection shall not, by reason of refusal to return to employment involved in such labor dispute or by reason of refusal to accept employment by the government, apply to any employee engaged in the labor dispute. For the purposes of this subsection, the term "employee" includes any employee and is not limited to the employees of a particular employer and "private employee" means one employed by other than the government.

This section shall be enforceable in the same manner as that provided in section 86-4 for the enforcement of sections 86-1 to 86-6. [L 1951, c 209, §6; RL 1955, §92-8; HRS §382-7; gen ch 1985]

#### **Note**

Sections 86-1 to 86-6 referred to in text are repealed.

#### **Revision Note**

Pursuant to §23G-15, in:

- (1) Subsection (b)(1), "or" deleted and punctuation changed; and
- (2) Subsection (b)(2) and (b)(3)(A) and (B), punctuation changed.

" **§382-8 Employee need not work involuntarily.** Nothing in this chapter shall be construed to require an individual employee to render labor or service without the individual employee's consent, nor shall anything in this chapter be construed to make the quitting of the individual employee's labor or service by an individual employee an illegal act. [L 1951, c 209, §7; RL 1955, §92-9; HRS §382-8; gen ch 1985]

" **§382-9 Rules and regulations.** For the purpose of carrying out sections 382-3 to 382-5, the governor may prescribe rules and regulations. Chapter 91 shall not be applicable to such rules and regulations. [L 1951, c 209, §8; RL 1955, §92-10; am imp L 1964, c 46, §2; am L 1965, c 96, §68; HRS §382-9]

" **§382-10 Powers in addition to other powers.** The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law, including sections 125-1 to 125-7 and nothing herein shall be construed as limiting

any other powers of the governor or the designated agency mentioned in section 382-3. [L 1951, c 209, §10; RL 1955, §92-11; HRS §382-10]