

# HB 332

RELATING TO COLLECTIVE BARGAINING

LAB, FIN

# HB332



Submit Testimony

**Measure Title:** RELATING TO COLLECTIVE BARGAINING.

**Report Title:** Maui County Package; Collective Bargaining; County Councils

**Description:** Establishes the right for a representative of each county council to be present as a non-voting participant in negotiations with bargaining units if the relevant county has employees in the particular bargaining unit. Requires the mayor or mayor's representative to provide timely updates relating to bargaining unit negotiations to the county councils. Amends the number of votes allotted to the Governor for collective bargaining negotiations with units (11) and (12).

**Companion:**

**Package:** Maui County Council

**Current Referral:** LAB, FIN

**Introducer(s):** SOUKI (Introduced by request of another party)

<u>Sort by Date</u>		<b>Status Text</b>
1/20/2017	H	Pending introduction.
1/23/2017	H	Pass First Reading
1/23/2017	H	Referred to LAB, FIN, referral sheet 2
2/3/2017	H	Bill scheduled to be heard by LAB on Tuesday, 02-07-17 10:00AM in House conference room 309.

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment  
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

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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. The purpose of this Act is to allow a  
2 representative of each county council to be present as a non-  
3 voting participant in negotiations with bargaining units if the  
4 relevant county has employees in the particular bargaining unit.  
5 County councils have the duty to appropriate funds for their  
6 counties. Councils' knowledge of bargaining unit negotiations  
7 and associated costs is essential to enable effective financial  
8 planning for the counties.

9           SECTION 2. Section 89-6, Hawaii Revised Statutes, is  
10 amended by amending subsection (d) to read as follows:

11           "(d) For the purpose of negotiating a collective  
12 bargaining agreement, the public employer of an appropriate  
13 bargaining unit shall mean the governor together with the  
14 following employers:

15           (1) For bargaining units (1), (2), (3), (4), (9), (10),  
16           (13), and (14), the governor shall have six votes and  
17           the mayors, the chief justice, and the Hawaii health



## H.B. NO. 332

1 systems corporation board shall each have one vote if  
2 they have employees in the particular bargaining unit;  
3 and one representative from each county council shall  
4 be allowed to attend as a non-voting participant  
5 during negotiations if the respective county has  
6 employees in the particular bargaining unit;

7 (2) For bargaining units (11) and (12), the governor shall  
8 have [~~four votes~~] one vote and the mayors shall each  
9 have one vote[+], and one representative from each  
10 county council shall be allowed to attend as a non-  
11 voting participant during negotiations if the  
12 respective county has employees in the particular  
13 bargaining unit;

14 (3) For bargaining units (5) and (6), the governor shall  
15 have three votes, the board of education shall have  
16 two votes, and the superintendent of education shall  
17 have one vote; and

18 (4) For bargaining units (7) and (8), the governor shall  
19 have three votes, the board of regents of the  
20 University of Hawaii shall have two votes, and the



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1 president of the University of Hawaii shall have one  
2 vote.

3 Any decision to be reached by the applicable employer group  
4 shall be on the basis of simple majority, except when a  
5 bargaining unit includes county employees from more than one  
6 county. In that case, the simple majority shall include at  
7 least one county.

8 The mayor or the mayor's representative shall provide  
9 timely updates relating to bargaining unit negotiations to the  
10 county councils in an executive meeting."

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

14

INTRODUCED BY:



By Request

JAN 20 2017



# H.B. NO. 332

**Report Title:**

Maui County Package; Collective Bargaining; County Councils

**Description:**

Establishes the right for a representative of each county council to be present as a non-voting participant in negotiations with bargaining units if the relevant county has employees in the particular bargaining unit. Requires the mayor or mayor's representative to provide timely updates relating to bargaining unit negotiations to the county councils. Amends the number of votes allotted to the Governor for collective bargaining negotiations with units (11) and (12).

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



DAVID Y. IGE  
GOVERNOR



JAMES K. NISHIMOTO  
CHIEF NEGOTIATOR

**STATE OF HAWAII**  
**OFFICE OF COLLECTIVE BARGAINING**  
**EXECUTIVE OFFICE OF THE GOVERNOR**  
235 S. BERETANIA STREET, SUITE 1201  
HONOLULU, HAWAII 96813-2437

February 3, 2017

TESTIMONY TO THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
For Hearing on Tuesday, February 7, 2017  
10:00 a.m., Conference Room 309

By

JAMES K. NISHIMOTO  
OFFICE OF COLLECTIVE BARGAINING, CHIEF NEGOTIATOR

**House Bill No. 332**  
**Relating to Collective Bargaining**

(WRITTEN TESTIMONY ONLY)

CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE  
COMMITTEE:

Thank you for the opportunity to testify on this important measure.

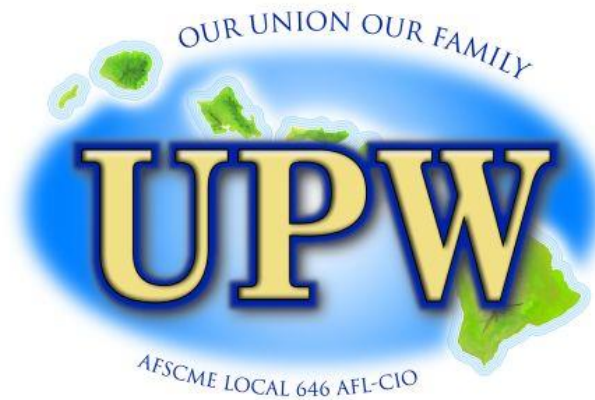
House Bill No. 332 proposes establishing the right for a representative of each county council to be present as a non-voting participant in negotiations with bargaining units if the relevant county has employees in the particular bargaining unit. Requires the mayor or mayor's representative to provide timely updates relating to bargaining unit negotiations to the county councils. Amends the number of votes allotted to the Governor for collective bargaining negotiations with bargaining units (11) and (12).

The Office of Collective Bargaining (OCB) **has concerns**. The bill proposes to allow the county councils to attend negotiations which could confuse the traditional definition of separation of powers, whereby responsibilities are divided among the

legislative and executive branches. Each county council has the final authority for negotiations based on the county council's authority to either appropriate or not appropriate funding to support the negotiated agreement.

Thank you for this opportunity to testify on this measure.





THE HAWAII STATE HOUSE OF REPRESENTATIVES  
The Twenty-Ninth Legislature  
Regular Session of 2017

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
The Honorable Representative Aaron Ling Johanson, Chair  
The Honorable Representative Daniel Holt, Vice Chair

DATE OF HEARING: Tuesday, February 7, 2017  
TIME OF HEARING: 10:00 a.m.  
PLACE OF HEARING: State Capitol, Rm. 309  
415 South Beretania Street

**TESTIMONY ON HOUSE BILL 332 RELATING TO COLECTIVE BARGAINING**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB332 proposes to authorize a nonvoting county representative(s) to participate in collective bargaining; reduce the number of votes the governor has from 4 to 1 for negotiations involving police officers and firefighters; and requires the respective Mayor to provide timely collective bargaining negotiations updates to the applicable county council.

The UPW speaks only to the role of a nonvoting council representative in collective bargaining negotiations.

The political doctrine of Separation of Powers is a basic precept of our democracy and government where each branch of government, the executive, the legislative and the judicial, would have defined abilities to check the powers of the other branches. It is a way in which power is not centralized thereby, allowing checks and balances to be made. It also limits one branch from exercising the core functions of another.

The Hawaii collective bargaining law reflects this doctrine. HRS-89-1 *Statement of Findings and Policy (b) (2)* provide for the, "... employers to negotiate with and enter into written agreement with the exclusive representatives on matters of wages, hours, and other conditions of employment.....".

The term "employer" is defined in HRS 89-2 *Definitions*, as the governor in the case of the State, the respective mayors in the case of the counties, the chief justice of the supreme court in the case of the judiciary..." The "exclusive representative" means the employee organization under section 89-2 as the collective bargaining agent to represent all employees in an appropriate bargain unit...".

The UPW respectfully opposes the presence and participation of nonvoting council representatives at collective bargaining negotiations. We ask that the bill be held.

Thank you for the opportunity to submit this testimony.

HB 332

LATE TESTIMONY

DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
DIRECTOR

LAUREL A. JOHNSTON  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
ON  
HOUSE BILL NO. 332

**LATE**

**LATE**

**February 7, 2017**  
**10:00 a.m.**  
**Room 309**

**LATE**

**RELATING TO COLLECTIVE BARGAINING**

House Bill No. 310 amends Chapter 89-6, HRS, to: 1) allow one representative from each county council to attend as a non-voting participant during negotiations and requires mayors or mayor's representative to provide timely updates relating to bargaining unit (BU) negotiations to the respective county councils in an executive meeting; and 2) reduce the Governor's vote from four votes to one in negotiations for BUs 11 and 12.

The Department of Budget and Finance opposes this measure.

Legislative bodies, including the county councils, play an important role in the collective bargaining process. However, taking an active role in collective bargaining negotiations would seem to be beyond the legislative role in the process.

The new voting structure would give the counties a clear majority vote exceeding the authority of the Governor. Even though the State has only a few special-funded employees in BU 11 and no employees in BU 12, arbitration awards and negotiated agreements often set precedents for later awards and agreements. Given these cost implications, the voting balance should be maintained so the Governor can continue to have an active voice in these negotiations.

Thank you for your consideration of our comments.

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
www.MauiCounty.us

February 6, 2017

Director of Council Services  
Sandy K. Baz

**LATE**

**LATE**

**LATE**

TO: The Honorable Aaron Ling Johanson, Chair  
House Committee Labor & Public Employment

FROM: Mike White  
Council Chair

Handwritten signature of Mike White in black ink.

SUBJECT: **HEARING OF FEBRUARY 7, 2017; TESTIMONY IN SUPPORT OF HB  
332, RELATING TO COLLECTIVE BARGAINING**

Thank you for the opportunity to testify on behalf of the Maui County Council in **support** of this measure. This proposal authorizes a nonvoting county council representative to participate in collective bargaining negotiations for county employees and amends the number of votes allotted to the governor for units 11 and 12.

This measure is in the 2017 Maui County Council Legislative Package. Therefore, I submit this testimony on behalf of the Maui County Council.

I support this measure for the following reasons:

1. The current collective bargaining process does not allow participation by county council representatives, despite being the appropriating body for cost items. Collective bargaining agreements arrive as a "done deal" before details and cost implications are shared with councils, leaving no ability to assess an agreement's impact on the counties' tax base and overall operations.
2. This measure would greatly improve the communication flow of collective bargaining information by allowing a county council representative to attend as a nonvoting participant if the respective county has employees in the particular bargaining unit.
3. This proposal will bring parity to negotiations where the counties have a larger financial stake in an outcome by equalizing votes among the state and counties. This would only apply to bargaining units 11 (firefighters) and 12 (police officers), which are primarily funded and operated under the counties.

Mahalo for your consideration. For the foregoing reasons, I **support** this measure.

*ocs:proj:legis:17legis:17testimony:hb332\_mkz*

**LATE**

**LATE**

**LATE**

holt1 - Joyleanne

From: mailinglist@capitol.hawaii.gov  
 Sent: Tuesday, February 7, 2017 9:20 AM  
 To: LABtestimony  
 Cc: robert.carroll@mauicounty.us  
 Subject: Submitted testimony for HB332 on Feb 7, 2017 10:00AM

**HB332**

Submitted on: 2/7/2017

Testimony for LAB on Feb 7, 2017 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Carroll	county of maui	Support	No

Comments: Testifying in SUPPORT of our Maui County Council Chair Mike White's submitted testimony, for HB 332, RELATING TO COLLECTIVE BARGAINING. Mahalo for this opportunity to testify, Councilmen Robert Carroll, Vice Chair Maui County Council.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**LATE**

**LATE**

**LATE**

holt1 - Joyleanne

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 7, 2017 8:22 AM  
To: LABtestimony  
Cc: yukilei.sugimura@mauicounty.us  
Subject: \*Submitted testimony for HB332 on Feb 7, 2017 10:00AM\*

**HB332**

Submitted on: 2/7/2017

Testimony for LAB on Feb 7, 2017 10:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Yuki Lei Sugimura	Maui County Council	Support	No

Comments:

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