

JAN 19 2018

A BILL FOR AN ACT

RELATING TO THE HAWAII LABOR RELATIONS BOARD.

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

1 SECTION 1. The legislature finds that changes in federal
2 and state law may require immediate alterations to Hawaii's
3 collective bargaining in public employment statutes, rules, or
4 agency practices. The legislature further finds that the United
5 States Supreme Court is currently reviewing a case that may
6 alter the foundations of public sector collective bargaining:
7 *Janus v. American Fed'n of State, Cty and Mun. Employees,*
8 *Council 31, U.S. Supreme Court Docket No. 16-1466. The issue in*
9 *question is whether Abood v. Detroit Board of Education should*
10 *be overruled and public-sector "agency shop" arrangements*
11 *invalidated under the First Amendment of the United States*
12 *Constitution. The outcome and disposition of this landmark case*
13 *may require public employee unions to restructure their*
14 *financing and may have a serious effect on the application of*
15 *Hawaii's collective bargaining in public employment law codified*
16 *under chapter 89, Hawaii Revised Statutes.*



1 The legislature also finds that future Supreme Court
2 decisions may impact Hawaii's public employment relations at any
3 time, including when the legislature is not in session.

4 Analyzing the impact of these decisions requires:

5 (1) Specialized skill in interpreting state law,
6 specifically Hawaii's collective bargaining in public
7 employment law; and

8 (2) Urgency to prevent the impairment of important rights.

9 The purpose of this Act is to promote harmonious and
10 cooperative relations between government and its employees by
11 requiring the Hawaii labor relations board to adopt emergency
12 rules if the board finds that Hawaii's collective bargaining in
13 public employment law, or the application thereof, is
14 inconsistent with any federal or state law and the adoption of
15 an emergency rule is urgently needed. Emergency rules enacted
16 by the Hawaii labor relations board pursuant to this Act may
17 stabilize public employment relations until the legislature or
18 board establishes a permanent solution after appropriate
19 deliberation.

20 SECTION 2. Section 89-5, Hawaii Revised Statutes, is
21 amended by amending subsection (i) to read as follows:



1 "(i) In addition to the powers and functions provided in
2 other sections of this chapter, the board shall:

3 (1) Establish procedures for, investigate, and resolve,
4 any dispute concerning the designation of an
5 appropriate bargaining unit and the application of
6 section 89-6 to specific employees and positions;

7 (2) Establish procedures for, resolve disputes with
8 respect to, and supervise the conduct of, elections
9 for the determination of employee representation;

10 (3) Resolve controversies under this chapter;

11 (4) Conduct proceedings on complaints of prohibited
12 practices by employers, employees, and employee
13 organizations and take such actions with respect
14 thereto as it deems necessary and proper;

15 (5) Hold such hearings and make such inquiries, as it
16 deems necessary, to carry out properly its functions
17 and powers, and for the purpose of such hearings and
18 inquiries, administer oaths and affirmations, examine
19 witnesses and documents, take testimony and receive
20 evidence, compel attendance of witnesses and the
21 production of documents by the issuance of subpoenas,



1 and delegate such powers to any member of the board or
2 any person appointed by the board for the performance
3 of its functions;

4 (6) Determine qualifications and establish, after
5 reviewing nominations submitted by the public
6 employers and employee organizations, lists of
7 qualified persons, broadly representative of the
8 public, to be available to serve as mediators or
9 arbitrators;

10 (7) Establish a fair and reasonable range of daily or
11 hourly rates at which mediators and arbitrators on the
12 lists established under paragraph (6) are to be
13 compensated;

14 (8) Conduct studies on problems pertaining to public
15 employee-management relations, and make
16 recommendations with respect thereto to the
17 legislative bodies; request information and data from
18 state and county departments and agencies and employee
19 organizations necessary to carry out its functions and
20 responsibilities; make available to all concerned
21 parties, including mediators and arbitrators,



1 statistical data relating to wages, benefits, and
2 employment practices in public and private employment
3 to assist them in resolving issues in negotiations;

4 (9) Adopt rules relative to the exercise of its powers and
5 authority and to govern the proceedings before it in
6 accordance with chapter 91; [~~and~~]

7 (10) Adopt emergency rules, in accordance with sections 91-
8 3 and 91-4, if the board finds that any section under
9 chapter 89, or the application thereof, is
10 inconsistent with any federal or state law, and the
11 adoption of an emergency rule is urgently needed to:

12 (A) Conform chapter 89 or board rules with any
13 requirements under federal or state law;

14 (B) Implement rights pursuant to federal or state
15 law;

16 (C) Clarify chapter 89;

17 (D) Stabilize public employment relations;

18 (E) Avoid disruption of governmental operations;

19 (F) Facilitate a board or legislative study on the
20 impact of federal or state law;



1 (G) Reinforce or preserve the public policy of the
2 State as stated in section 89-1; or
3 (H) Temporarily resolve a practical problem; and
4 ~~[(10)]~~ (11) Execute all of its responsibilities in a timely
5 manner so as to facilitate and expedite the resolution
6 of issues before it."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: _____

Jin
Randy de Baker
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S.B. NO. 2372

Report Title:

Hawaii Labor Relations Board; Emergency Rulemaking

Description:

Requires the Hawaii Labor Relations Board to adopt emergency rules if the Board finds that Hawaii's collective bargaining in public employment law, or the application thereof, is inconsistent with any federal or state law and the adoption of an emergency rule is urgently needed.

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

