



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare For All"

Senate Committee on Labor
Senator Jill N. Tokuda, Chair
Senator J. Kalani English, Vice Chair

February 6, 2018
Conference Room 229
3:30 p.m.
Hawaii State Capitol

Testimony Opposing Senate Bill 2373 Relating to Collective Bargaining. Provides that negotiations over the implementation of management decisions affecting the terms and conditions of employment that are subject to collective bargaining are not precluded from collective bargaining negotiation.

Linda Rosen, M.D., M.P.H.
Chief Executive Officer
Hawaii Health Systems Corporation

CHAIR TOKUDA, VICE CHAIR ENGLISH, AND MEMBERS OF THE SENATE COMMITTEE ON LABOR:

S.B. 2373 clarifies the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer.

Hawaii Health Systems Corporation ("HHSC") understands the purpose of this bill but **opposes** the wording of this bill, as more fully set forth below, because it leads to an ambiguity about which subjects are permissive and which are mandatory. HHSC therefore proposes amending the bill as set forth below:

1. This bill deletes the phrase ". . . as a permissive subject of bargaining", which implies that those management decisions that are acknowledged to be permissive subjects of bargaining would become "mandatory subjects of bargaining".
2. The current wording of the statute promotes joint decision making between the employers and exclusive representatives by balancing the role of the employer to manage and direct operations and the exclusive representative's role to advocate and negotiate for its members as it relates to wages, hours, and working conditions.

3. HHSC is a state agency committed to providing the highest quality health care in an often quickly changing work environment, requiring management's ability to direct its workforce, determine minimum qualifications and work standards, and to take appropriate action to ensure satisfactory performance. This must be done in compliance with federal and state regulations which directly impact operational decisions.
4. HHSC proposes the addition of language to the measure as follows:

Amend section 89-9(d)(8), HRS, as follows:

This subsection shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007, and except as otherwise provided in this chapter, shall not preclude negotiations over the implementation of management decisions that materially affect terms and conditions of employment that are properly subject to collective bargaining. ~~This subsection also shall not preclude, but does not mandate, negotiations over the~~ procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions as a permissive subject of bargaining during collective bargaining negotiations or negotiations over a memorandum of agreement, memorandum of understanding, or other supplemental agreement.

Amend section 89-10(d), HRS, as follows:

Whenever there are provisions in a collective bargaining agreement concerning a matter under chapter 76 or 78 that is negotiable under chapter 89, the terms of the agreement shall prevail; provided that in no instance will the arbitration panel consider for inclusion any final position that is not consistent with section 89-9(d).

5. Finally, in the event that the Committee declines to accept the proposed amendment, HHSC respectfully requests that the Committee consider the addition of a sunset date for this bill. This would allow the employer and the exclusive representative to consider the impact of the bill on operations and afford an opportunity for appropriate further refinement.

Based upon the above, Hawaii Health Systems Corporation respectfully recommends that further consideration of the above concerns be given.

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



Randy Perreira
President

HAWAII STATE AFL-CIO

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The Twenty-Ninth Legislature, State of Hawaii
Hawaii State Senate
Committee on Labor

Testimony by
Hawaii State AFL-CIO

February 6, 2018

S.B. 2373 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii State AFL-CIO strongly supports S.B. 2373 which provides that negotiations over the implementation of management decisions affecting the terms and conditions of employment that are subject to collective bargaining are not precluded from collective bargaining negotiations.

Workers have the right to collectively bargain and should be able to negotiate their wages, benefits, and work conditions. S.B. 2373 simply ensures their voices are heard during collective bargaining negotiations. The Hawaii State AFL-CIO strongly urges the passage of S.B. 2373.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President



The Senate Committee on Labor
Tuesday, February 6, 2018
3:30 PM, Conference Room 229

RE: **SB 2373 Relating to Collective Bargaining**

Attention: Chair Jill Tokua, Vice Chair J. Kalani English and members of the Committee

The University of Hawaii Professional Assembly (UHPA) **urges the committee to support SB 2373** which brings clarity to Chapter 89 by recognizing that negotiations may take place on the effect and consequences of management decisions relating to the terms and conditions of employment.

In the previous legislative session, a similar bill was passed with very strong support of the legislature. Unfortunately, Governor Ige vetoed the measure.

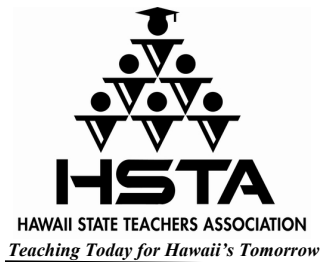
Now comes SB 2373 which reflects collaborative work between the Governor's staff and representatives of the public sector unions to advance a bill that both can abide by and implement in a manner that maintains the balance of interests between labor and management.

UHPA seeks committee support for this measure.

Respectfully submitted,

A handwritten signature in black ink that reads "Kristeen Hanselman".

Kristeen Hanselman
Executive Director



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TESTIMONY BEFORE THE SENATE COMMITTEE ON
LABOR

RE: SB 2373 - RELATING TO COLLECTIVE BARGAINING

TUESDAY, FEBRUARY 6, 2018

WILBERT HOLCK, EXECUTIVE DIRECTOR
HAWAII STATE TEACHERS ASSOCIATION

Chair Tokuda and Members of the Committee:

The Hawaii State Teachers Association **strongly supports and suggests amendments for SB 2373**, relating to collective bargaining.

This proposal clarifies the obligation of the state to engage in negotiations in a fair and respectable manner. While HSTA recognizes the right of the state to manage employee work, we strongly affirm the importance of protecting employees' right to negotiate those subjects outlined in HRS 89-9.

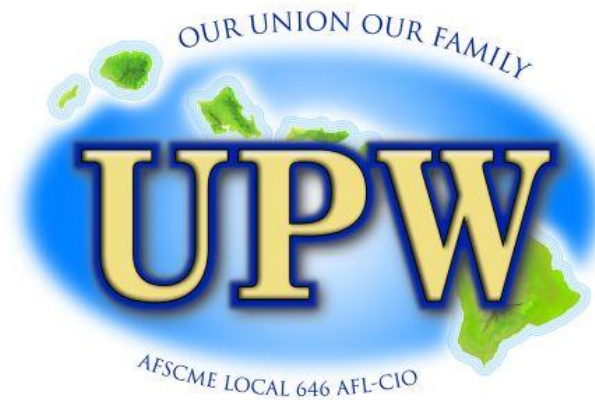
Collective bargaining is especially important to public school teachers. It is in the best interest of both the employer and the union to ensure that bargaining occurs in a way that supports an employee's ability to enhance their professionalism, leads to a workplace free from health and safety risks, and is conducted in a fair and equitable manner. Our state's commitment to collective bargaining is even more urgent under the pending threat of the Supreme Court's ruling in *Janus v. AFSCME*, which could fundamentally undermine Hawai'i's dedication to labor management peace by constraining collective bargaining representatives' ability to collect resources from their members and, in turn, diminishing public employees' ability to negotiate with management and represent their members' interests.

That said, we join the Hawai'i Government Employees Association in requesting an amendment to Section 1 of this bill to read:

“This subsection shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007, and except

as otherwise provided in this chapter, shall not preclude negotiations over the implementation of management decisions that affect terms and conditions of employment that are subject to collective bargaining. Further, this subsection shall not preclude negotiations over the procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions as [a permissive subject] subjects of bargaining during collective bargaining negotiations or negotiations over a memorandum of agreement, memorandum of understanding, or other supplemental agreement [.] but such obligation does not compel either party to agree to a proposal or make a concession.”

To preserve the islands’ longstanding devotion to the protection of workers’ rights, the Hawaii State Teachers Association asks your committee to **support** this bill.



THE HAWAII STATE SENATE
The Twenty-Ninth Legislature
Regular Session of 2018

COMMITTEE ON LABOR

The Honorable Jill N. Tokuda, Chair
The Honorable J. Kalani English, Vice Chair

DATE OF HEARING: Tuesday, February 6, 2018
TIME OF HEARING: 3:30 p.m.
PLACE OF HEARING: State Capitol
415 South Beretania Street
Conference Room 229

TESTIMONY IN SUPPORT OF SB2373 RELATING TO COLLECTIVE BARGAINING

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

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 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 four counties. The UPW also represents about 1,500 members of the private sector.

SB2373 provides that negotiations over the implementation of management decisions affecting the terms and conditions of employment that are subject to collective bargaining are not precluded from collective bargaining negotiations. In other words, the impact (impact bargaining) of management decisions that affect terms and conditions of employment including procedures and criteria for promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions are

no longer permissive subjects of bargaining but mandatory subjects of collective bargaining. This provision will serve to clarify much of the past confusion and delays as to what is bargainable or negotiable. This encourages the Good Faith Bargaining process.

Joint decision-making is a declared legislative public policy (HRS 89-1 Statement of findings and policy.) "...to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government". SB2373 is a re-affirmation of this policy. The UPW strongly supports this bill.

Thank you for the opportunity to submit this proposal.



HAWAII FIRE FIGHTERS ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 1463, AFL-CIO
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THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018
February 6, 2018

Committee on Labor

Testimony by
Hawaii Fire Fighters Association

S.B. No. 2373 RELATING TO COLLECTIVE BARGAINING

The Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO, represents more than 1,900 professional active-duty and 800 retired fire fighters throughout the State. The HFFA, on behalf of our members, **strongly supports S.B. No. 2373** clarifying the allowable scope of collective bargaining negotiations.

The proposed amendment in S.B No. 2373 clarifies that the subjects of bargaining between the employers and the exclusive representatives are negotiable when the implementation of HRS Section 89-9, paragraphs (1) through (8), *affects the terms and conditions of employment.*" (Emphasis added.) The employers are not prohibited from establishing new policies under this proposed amendment. However, this proposed legislation requires that the *impact of those policies* on public employment are subject to bargaining.

Specifically excluded topics, such as all aspects of the Hawaii Retirement System and the health insurance coverages of the Employer Union Trust Fund, remain outside of the collective bargaining process.

This legislative proposal places the responsibility of good faith bargaining on both parties and effectively addresses the rights and benefits for public employees under the collective bargaining law.

HFFA appreciates your Committee's favorable consideration of this measure and thank you for the opportunity to testify.



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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Karin Gill, Secretary	Chuck Huxel	Doug Pyle		

February 2 , 2018

TO: Honorable Chairs Tokuda and Members of the Labor Committee

RE: SB 2373 Relating to Collective Bargaining

Support for hearing on Feb 6

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 2373 as it would protect workers against those who would try to weaken or diminish the scope of what can be negotiated in collective bargaining. For example, anti-worker forces around the country have tried to weaken worker rights by excluding non-salary or non-cost items that are traditionally negotiable, like sick leave, vacation, discipline procedures and representation, safety, training and other work conditions other than salary. It is only fair that workers continue to be able to negotiate these matters in collective bargaining. This bill will protect the current and traditional scope of negotiations in collective bargaining and so will protect workers, their families and the middle class in Hawai'i.

Thank you for your favorable consideration.

Sincerely,

John Bickel
President

SB-2373

Submitted on: 2/2/2018 7:40:17 AM

Testimony for LBR on 2/6/2018 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong		Support	No

Comments:

Chair Tokuda and Honorable Members of the Senate Labor Committee,

I write to you in support of SB2373 because we need to protect the benefits that working people need. A livable job is more than a paycheck: it is a sense of value and the livelihood of our working families. All benefits are an essential part of compensation, no less than salary and wages. For families use sick and medical leave, and workers need representation, due process for disciplinary action, training and safety benefits to keep them prepared and well, and not least vacation, a vanishing American tradition.

Please support workers and protect working people's benefits.

With deep thanks,

Dylan P. Armstrong, O'ahu County Democrats Vice Chair

in my individual capacity.



February 6, 2018

U.S. MAIL/FAX: 808-587-7220

The Honorable Jill N. Tokuda
Chair
Senate Committee on Labor
Hawaii State Capitol, Room 202
415 South Beretania Street
Honolulu, HI 96813

Re: **SB2373 [Relating to Collective Bargaining]**

Dear Chair Tokuda, Vice-Chair English and Honorable Committee Members:

I write to you on behalf of the State of Hawaii Organization of Police Officers ("SHOPO") in support of SB2373. SHOPO strongly supports SB2373 which seeks to clarify the scope of negotiations.

We believe SB2373 will clarify and promote the legislature's "statement of findings and policy" outlined in HRS §89-1, wherein the legislature stated in pertinent part:

The legislature finds that **joint decision-making** is the modern way of administering government. Where public employees have been granted the **right to share in the decision-making process** affecting wages and **working conditions**, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective.

HRS §89-1 (emphasis added).

This bill will promote the joint decision-making process while insuring fairness in the negotiation process between the public employers and respective bargaining units. Notably, SB2373 does not amend in anyway the existing language in HRS §89-9 that currently precludes a public union from "interfering" with the "rights and obligations" of a public employer, as those rights and obligations are articulated under HRS §89-9(d)(1)-(8).

- PRESIDENT**
Tenari R. Ma'afala
- VICE PRESIDENT**
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- TREASURER**
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Robert Cavaco
- HAWAII CHAPTER CHAIR**
Todd Pataray
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The Honorable Jill N. Tokuda
Chair, Senate Committee on Labor
February 6, 2018
SHOPO Testimony, Page 2 of 2
Re: SB2373 [Relating to Collective Bargaining]

In addition, we would respectfully request that the Bill be amended to add the following language (bold):

This subsection shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007, and except as otherwise provided in this chapter, shall not preclude negotiations over the implementation of management decisions that affect terms and conditions of employment that are subject to collective bargaining. Further, this subsection shall not preclude negotiations over the procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions as [~~a permissive subject~~] **subjects** of bargaining during collective bargaining negotiations or negotiations over a memorandum of agreement, memorandum of understanding, or other supplemental agreement [-] **but such obligation does not compel either party to agree to a proposal or make a concession.**

We believe this additional language will make clear that neither a public union nor a public employer can compel the other side to agree to any proposal or make any concessions. This will also ensure fairness to both sides during collective bargaining negotiations.

We thank you for allowing us to be heard and respectfully hope your committee will support this bill.

Respectfully submitted,



TENARI MA'AFALA
SHOPO President



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

LATE

The Twenty-Ninth Legislature, State of Hawaii
The Senate
Committee on Labor

Testimony by
Hawaii Government Employees Association

February 6, 2018

S.B. 2373 – RELATING TO COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 2373 which provides that negotiations over the implementation of management decisions affecting the terms and conditions of employment are not precluded from bargaining, with proposed amended language.

This important measure makes necessary amendments to Ch. 89-9, Hawaii Revised Statutes, to clarify and delineate the scope of bargaining between the public sector employers and the exclusive representatives. Additional language for this measure was inadvertently not included in the current version and we therefore propose the following amendments to Section 1 of S.B. 2373 to now read:

“This subsection shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007, and ~~except as otherwise provided in this chapter,~~ shall not preclude negotiations over the ~~implementation of management decisions that affect terms and conditions of employment that are subject to collective bargaining.~~ Further, this subsection shall not preclude ~~negotiations over the~~ procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions as ~~[a permissive subject]~~ subjects of bargaining during collective bargaining negotiations or negotiations over a memorandum of agreement, memorandum of understanding, or other supplemental agreement [-] but such obligation does not compel either party to agree to a proposal or make a concession.”

The amendments contained in the proposed language are necessary to ensure fairness in the process of negotiations. Thank you for the opportunity to testify in strong support of the passage of S.B. 2373.

Respectfully submitted,

Randy Perreira
Executive Director

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 except as otherwise provided in this chapter,
 15 shall not preclude negotiations over the implementation of
 16 management decisions that affect terms and conditions of
 17 employment that are subject to collective bargaining. Further,
 18 this subsection shall not preclude negotiations over the
 19 procedures and criteria on promotions, transfers, assignments,
 20 demotions, layoffs, suspensions, terminations, discharges, or
 21 other disciplinary actions as [~~a permissive subject~~] subjects of



1 bargaining during collective bargaining negotiations or
2 negotiations over a memorandum of agreement, memorandum of
3 understanding, or other supplemental agreement[-] but such
4 obligation does not compel either party to agree to a proposal
5 or make a concession.

6 Violations of the procedures and criteria so negotiated may
7 be subject to the grievance procedure in the collective
8 bargaining agreement."

9 SECTION 2.. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Employment; Collective Bargaining; Scope of Negotiations

Description:

Provides that negotiations over the implementation of management decisions affecting terms and conditions of employment that are subject to collective bargaining are not precluded from collective bargaining negotiations. Also specifies that negotiations over the procedures and criteria of certain subjects of bargaining does not compel either party to agree to a proposal or make a concession. (HB2114 HD1 PROPOSED)

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

