
A BILL FOR AN ACT

RELATING TO THE OFFICE OF COLLECTIVE BARGAINING AND MANAGED
COMPETITION.

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

1 SECTION 1. The chief negotiator in the office of
2 collective bargaining and managed competition serves a vital
3 role as the key representative of the governor during collective
4 bargaining negotiations. This position also advises the
5 governor on labor relations policy. While it is necessary for
6 the chief negotiator position to remain a direct appointment by
7 the governor, the office of collective bargaining, as a
8 functional unit, should be transferred to the department of
9 human resources development to maintain institutional knowledge
10 and support across executive administrations. Further, in light
11 of the fact that part II (privatization) of Act 90, Session Laws
12 of Hawaii 2001, sunsetted in 2007, managed competition pursuant
13 to chapter 89A, Hawaii Revised Statutes, is arguably not viable
14 absent an analog to part II being enacted.

15 The purpose of this Act is to maintain collective
16 bargaining institutional knowledge and support by transferring



1 the position of chief negotiator, related organizational
2 functions, and funding from the office of the governor to the
3 department of human resources development and eliminating
4 references to managed competition in Chapter 89A, Hawaii Revised
5 Statutes.

6 SECTION 2. Section 89A-1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§89A-1 Office of collective bargaining [~~and managed~~
9 ~~competition~~]. (a) There shall be established an office of
10 collective bargaining [~~and managed competition~~] in the [~~office~~
11 ~~of the governor~~] department of human resources development to
12 assist the governor in [~~implementation and review of the managed~~
13 ~~process of public private competition for particular government~~
14 ~~services through the managed competition process and~~]
15 negotiations between the State and the exclusive representatives
16 on matters of wages, hours, and other negotiable terms and
17 conditions of employment.

18 (b) The position of chief negotiator for the State is
19 hereby established in the department of human resources
20 development to head the office. The chief negotiator shall be
21 experienced in labor relations. The governor shall appoint the



1 chief negotiator [~~and may also appoint deputy negotiators to~~
 2 ~~assist the chief negotiator.~~], without regard to chapter 76.
 3 The appointment of the chief negotiator shall not be subject to
 4 senate confirmation. The governor, at pleasure, may remove the
 5 chief negotiator [~~and any deputy negotiator. All other~~
 6 ~~employees shall be appointed by the chief negotiator. All~~
 7 ~~employees in the office of collective bargaining and managed~~
 8 ~~competition]. The chief negotiator shall be included in any
 9 benefit programs generally applicable to employees of the State.~~

10 (c) Subject to the approval of the governor, the office of
 11 collective bargaining [~~and managed competition] shall[-~~

12 ~~(1) Assist]~~ assist the governor in formulating the State's
 13 philosophy for public collective bargaining [~~and for~~
 14 ~~the managed process for public private competition for~~
 15 ~~government services, including which particular~~
 16 ~~service can be provided more efficiently, effectively,~~
 17 ~~and economically considering all relevant costs; and~~

18 ~~(2) Coordinate and negotiate the managed competition~~
 19 ~~process on behalf of the State with exclusive~~
 20 ~~representatives of affected public employees and~~
 21 ~~private contractors.~~



1 ~~(d) No employee of the office of collective bargaining and~~
2 ~~managed competition shall be included in the civil service, any~~
3 ~~civil service classification system, or any appropriate~~
4 ~~bargaining unit; provided that any civil service position in~~
5 ~~existence on July 1, 2002, shall not be exempted from civil~~
6 ~~service until the incumbent in that position on July 1, 2002,~~
7 ~~vacates that position.~~

8 ~~(e) If the State executes a contract with a private~~
9 ~~contractor pursuant to the managed competition process~~
10 ~~authorized under this section, the State may use the layoff~~
11 ~~provisions of the civil service laws and the respective~~
12 ~~collective bargaining contracts to release employees displaced~~
13 ~~from their positions by the managed competition process. Prior~~
14 ~~to implementing any layoff provision of the civil service laws~~
15 ~~or a collective bargaining contract, the State shall use its~~
16 ~~resources for placing, retraining, and providing voluntary~~
17 ~~severance incentives for displaced employees. Methods that may~~
18 ~~be used to minimize or avoid the adverse effects of an agency's~~
19 ~~decision to secure needed services from contractors may include:~~

20 ~~(1) Coordination with the private service provider awarded~~
21 ~~the contract under this section to continue a~~



1 ~~displaced employee's employment as an employee of the~~
2 ~~contractor,~~

3 ~~(2) Reassignment to another civil service position the~~
4 ~~employee is qualified to fill,~~

5 ~~(3) Retraining to qualify the employee for reassignment,~~
6 ~~and~~

7 ~~(4) Severance incentives.~~

8 ~~(f) As used in this section, "managed competition" means~~
9 ~~the process established in this section by which the State and a~~
10 ~~private contractor compete to provide government services]."~~

11 SECTION 3. Section 89A-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§89A-2 Functions of the office of collective bargaining**
14 ~~[and managed competition]~~. In addition to the powers and
15 functions provided in other sections of this chapter, and
16 subject to the approval of the governor, the office of
17 collective bargaining ~~[and managed competition]~~ shall:

18 (1) Assist the governor in formulating plans, including
19 objectives, criteria to measure management's
20 accomplishment of objectives, and programs through
21 which the objectives are to be attained;



- 1 (2) Assist the governor in formulating management's
2 philosophy for public collective bargaining as well as
3 planning bargaining strategies;
- 4 (3) Conduct negotiations with the exclusive
5 representatives of each employee organization and
6 designate employer spokespersons for each negotiation;
- 7 (4) Coordinate the State's resources in all mediation,
8 fact-finding and interest arbitration cases as well as
9 in all labor disputes;
- 10 (5) Conduct systematic reviews of collective bargaining
11 agreements for the purpose of contract negotiations;
- 12 (6) Coordinate the systematic compilation of data by all
13 agencies that is required for negotiating purposes;
- 14 (7) Coordinate the establishment of cost data negotiated
15 with each exclusive representative and assist the
16 governor in making recommendations with respect
17 thereto to the legislative bodies;
- 18 (8) Prepare and submit an annual report and such other
19 reports as may be requested to the governor and to the
20 legislature on the implementation of the collective
21 bargaining act."



1 SECTION 4. All rights, powers, functions, and duties of
 2 the office of collective bargaining and managed competition are
 3 transferred from the office of the governor and placed in the
 4 department of human resources development for administrative
 5 purposes and the office shall be renamed as the office of
 6 collective bargaining.

7 SECTION 5. All appropriations, records, equipment,
 8 machines, files, supplies, contracts, books, papers, documents,
 9 maps, and other personal property heretofore made, used,
 10 acquired, or held by the office of the governor relating to the
 11 functions transferred to the department of human resources
 12 development shall be transferred with the functions to which
 13 they relate.

14 SECTION 6. Chapter 89A, Hawaii Revised Statutes, is
 15 amended by replacing all references to "office of collective
 16 bargaining and managed competition" or like references with
 17 "office of collective bargaining" or like references, as the
 18 context requires.

19 SECTION 7. Statutory material to be repealed is bracketed
 20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on January 1, 2051.



Report Title:

Office of Collective Bargaining; DHRD; Chief Negotiator

Description:

Transfers the Office of Collective Bargaining and related organizational functions, including the Chief Negotiator position, from the Office of the Governor to DHRD. Renames the Office of Collective Bargaining and Managed Competition to the Office of Collective Bargaining. Eliminates references to managed competition in section 89A. Takes effect 1/1/2051.
(SD1)

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