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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. Section 89-9, Hawaii Revised Statutes, is  
2 amended as follows:
- 3           1. By amending subsection (a) to read:
- 4           "(a) The employer and the exclusive representative shall  
5 meet at reasonable times, including meetings sufficiently in  
6 advance of the February 1 impasse date under section 89-11, and  
7 shall negotiate in good faith with respect to wages, hours, the  
8 benefits and amounts of contributions by the State and  
9 respective counties to the Hawaii employer-union health benefits  
10 trust fund to the extent allowed in subsection (e), and other  
11 terms and conditions of employment which are subject to  
12 collective bargaining and which are to be embodied in a written  
13 agreement as specified in section 89-10, but such obligation  
14 does not compel either party to agree to a proposal or make a  
15 concession."
- 16           2. By amending subsections (d) and (e) to read:



1           "(d) Excluded from the subjects of negotiations are  
2 matters of classification, reclassification, [~~benefits of but~~  
3 ~~not contributions to the Hawaii employer union health benefits~~  
4 ~~trust fund,~~] recruitment, examination, initial pricing, and  
5 retirement benefits except as provided in section 88-8(h). The  
6 employer and the exclusive representative shall not agree to any  
7 proposal that would be inconsistent with the merit principle or  
8 the principle of equal pay for equal work pursuant to section  
9 76-1 or that would interfere with the rights and obligations of  
10 a public employer to:

- 11           (1) Direct employees;
- 12           (2) Determine qualifications, standards for work, and the  
13           nature and contents of examinations;
- 14           (3) Hire, promote, transfer, assign, and retain employees  
15           in positions;
- 16           (4) Suspend, demote, discharge, or take other disciplinary  
17           action against employees for proper cause;
- 18           (5) Relieve an employee from duties because of lack of  
19           work or other legitimate reason;



- 1           (6) Maintain efficiency and productivity, including  
2           maximizing the use of advanced technology, in  
3           government operations;
- 4           (7) Determine methods, means, and personnel by which the  
5           employer's operations are to be conducted; and
- 6           (8) Take actions as may be necessary to carry out the  
7           missions of the employer in cases of emergencies.

8           This subsection shall not be used to invalidate provisions  
9 of collective bargaining agreements in effect on and after June  
10 30, 2007, and except as otherwise provided in this chapter,  
11 shall not preclude negotiations over the implementation of  
12 management decisions that affect terms and conditions of  
13 employment that are subject to collective bargaining. Further,  
14 this subsection shall not preclude negotiations over the  
15 procedures and criteria on promotions, transfers, assignments,  
16 demotions, layoffs, suspensions, terminations, discharges, or  
17 other disciplinary actions as subjects of bargaining during  
18 collective bargaining negotiations or negotiations over a  
19 memorandum of agreement, memorandum of understanding, or other  
20 supplemental agreement; provided that such obligation shall not  
21 compel either party to agree to a proposal or make a concession.



1 Violations of the procedures and criteria so negotiated may  
2 be subject to the grievance procedure in the collective  
3 bargaining agreement.

4 (e) Negotiations relating to the benefits of and  
5 contributions to the Hawaii employer-union health benefits trust  
6 fund shall be for the purpose of agreeing upon the benefits  
7 under the health benefits plan and amounts [~~which~~] that the  
8 State and counties shall contribute under [~~section~~] sections  
9 87A-32[~~7~~] through 87A-37, toward the payment of the costs for a  
10 health benefits plan, as defined in section 87A-1, and group  
11 life insurance benefits, and the parties shall not be bound by  
12 the benefits and amounts contributed under prior agreements [~~+~~  
13 ~~provided that section 89-11 for the resolution of disputes by~~  
14 ~~way of arbitration shall not be available to resolve impasses or~~  
15 ~~disputes relating to the amounts the State and counties shall~~  
16 ~~contribute to the Hawaii employer-union health benefits trust~~  
17 ~~fund~~]. "

18 SECTION 2. Section 89-11, Hawaii Revised Statutes, is  
19 amended by amending subsection (g) to read as follows:

20 "(g) The decision of the arbitration panel shall be final  
21 and binding upon the parties on all provisions submitted to the



1 arbitration panel. ~~[If the parties have reached agreement with~~  
2 ~~respect to the amounts of contributions by the State and~~  
3 ~~counties to the Hawaii employer union health benefits trust fund~~  
4 ~~by the tenth working day after the arbitration panel issues its~~  
5 ~~decision, the final and binding agreement of the parties on all~~  
6 ~~provisions shall consist of the panel's decision and the amounts~~  
7 ~~of contributions agreed to by the parties. If the parties have~~  
8 ~~not reached agreement with respect to the amounts of~~  
9 ~~contributions by the State and counties to the Hawaii employer-~~  
10 ~~union health benefits trust fund by the close of business on the~~  
11 ~~tenth working day after the arbitration panel issues its~~  
12 ~~decision, the parties shall have five days to submit their~~  
13 ~~respective recommendations for such contributions to the~~  
14 ~~legislature, if it is in session, and if the legislature is not~~  
15 ~~in session, the parties shall submit their respective~~  
16 ~~recommendations for such contributions to the legislature during~~  
17 ~~the next session of the legislature. In such event, the final~~  
18 ~~and binding agreement of the parties on all provisions shall~~  
19 ~~consist of the panel's decision and the amounts of contributions~~  
20 ~~established by the legislature by enactment, after the~~  
21 ~~legislature has considered the recommendations for such~~



1 ~~contributions by the parties. It is strictly understood that no~~  
2 ~~member of a bargaining unit subject to this subsection shall be~~  
3 ~~allowed to participate in a strike on the issue of the amounts~~  
4 ~~of contributions by the State and counties to the Hawaii~~  
5 ~~employer-union health benefits trust fund.]~~ The parties shall  
6 take whatever action is necessary to carry out and effectuate  
7 the final and binding agreement. The parties may, at any time  
8 and by mutual agreement, amend or modify the panel's decision.

9       Agreements reached pursuant to the decision of an  
10 arbitration panel and the amounts of contributions by the State  
11 and counties to the Hawaii employer-union health benefits trust  
12 fund, as provided [~~herein,~~] in this section, shall not be  
13 subject to ratification by the employees concerned. All items  
14 requiring any moneys for implementation shall be subject to  
15 appropriations by the appropriate legislative bodies and the  
16 employer shall submit all [~~such~~] required items within ten days  
17 after the date on which the agreement is entered into as  
18 provided [~~herein,~~] in this section, to the appropriate  
19 legislative bodies."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on January 1, 2050.



**Report Title:**

Collective Bargaining; Impasse; EUTF

**Description:**

Allows the scope of collective bargaining negotiations to include employee benefits. Allows collective bargaining parties to resolve impasses related to contribution disputes through binding arbitration. (HB392 HD1)

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

