



The Senate Committee on Labor, Culture and the Arts
Thursday, February 7, 2019
2:45 pm, Room 224

RE: SB 1498, RELATING TO THE HAWAII LABOR RELATIONS BOARD

Attention: Chair Brian T. Taniguchi, Vice Chair Les Ihara, Jr. and
Members of the Committee

The University of Hawaii Professional Assembly (UHPA) **supports the intent of SB 1498 with recommendations**, which seeks to change two sections of Chapter 89 to give the Hawaii Labor Relations Board the authority to determine the qualifications and criteria for potential arbitrators selected under certain circumstances to resolve collective bargaining impasses.

UHPA represents Bargaining Unit 7, a strike unit, and therefore, in the typical bargaining year, UHPA would not utilize interest arbitration to resolve impasse. However, UHPA does understand that there have been recent issues with the quality and experience of neutral arbitrators that have been presented by the American Arbitration Association (AAA), the private entity that by statute has the exclusive right to provide interest arbitrators in the State of Hawaii.

In order to resolve the issue, UHPA would propose removing AAA from statute and insert language to guide the HLRB with specific criteria to follow with guidance to appropriately vet arbitrators.

Thank you for the opportunity to support the intent of **SB 1498 with recommended changes**.

Respectfully Submitted,

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

Kristeen Hanselman
Executive Director

**University of Hawaii
Professional Assembly**

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February 6, 2019

To: The Honorable Brian T. Taniguchi, Chair,
The Honorable Les Ihara, Jr., Vice Chair, and
Members of the Senate Committee on Labor, Culture and the Arts

Date: Thursday, February 7, 2019
Time: 2:45 p.m.
Place: Conference Room 224, State Capitol

From: Hawaii Labor Relations HLRB (Board)
Dept. of Labor and Industrial Relations (DLIR)

Re: SB 1498

RELATING TO THE HAWAII LABOR RELATIONS BOARD.

I. OVERVIEW OF PROPOSED LEGISLATION

This bill amends Hawaii Revised Statutes (HRS) §§ 89-5(i)(6), (7) and 89-11(e)(2)(A) by the following:

1. § 89-5(i)(6) currently requires the Board to determine qualifications and establish lists *from nominations from the public employers and employee organizations* to serve as mediators or arbitrators.

The bill requires the Board to determine qualifications and establish lists *from nominations from public employers and employee organizations* to serve as grievance arbitrators, interest arbitrators or a combination thereof.

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2. § 89-5(i)(7) is a new section that requires the Board to review and determine qualifications and criteria of the list of five qualified arbitrators provided pursuant to section 89-11(e)(2)(A).
3. § 89-11(e)(2)(A) currently requires the Board to request from the American Arbitration Association to furnish a list of five qualified arbitrators for the employer and exclusive representative to strike the names from the list until a single name is left to be appointed to the interest arbitration panel as the neutral Chair.

The Bill proposes to add the word “interest” to the phrase “five qualified arbitrators” to read “five interest qualified arbitrators”.

II. COMMENTS

The legislative history of interest arbitration in Hawaii began in 1978 with the creation of HRS §89-11(e). Attached please find a copy of the final Standing Committee Report 632-78 cited on pp. 1032-1033 of the Journal of the Senate of the Ninth Legislature of the State of Hawaii: Regular Session of 1978, which gives a more concise legislative intent of § 89-11(e)(2)(A).

The Board is concerned with the amendments that impose upon the Board additional requirements to review and determine qualifications to two lists created by (a) HRS § 89-5(i)(6) to review nominations submitted by the public employers and employee organizations, determine qualifications and establish lists of nominees to serve as interest arbitrators; and (b) HRS § 89-5(i)(7) which requires the Board to review and determine qualifications of a list submitted by the American Arbitration Association as required by HRS § 89-11(e)(2)(A). The bill also creates a new type of “interest arbitrator” in HRS § 89-11(e)(2)(A) with the insertion of “experience interest” arbitrator, which is not required in the other sections. The Board’s concern is the time and expense it will require to examine and determine each nominee’s qualifications as proposed by this bill.

If the Legislature intends to pass this bill as drafted, then the Board makes the following suggestions to clarify and synchronize the proposed language so there will be only one list of interest arbitrators which will be created under HRS § 89-5(i)(6) which will be used in HRS § 89-11(e)(2)(A).

§ 89-5(i)(6) to read as follows:

Determine qualifications and establish, after reviewing nominations submitted by the public employers and employee organizations, lists of qualified persons, broadly representative of the public, to be available to serve as mediators, grievance arbitrators, or interest arbitrators pursuant to § 89-11(e)(2)(A);

1. § 89-5(i)(7) – DELETE

2. § 89-11(e)(2)(A) to read as follows:

(A) Arbitration panel. Two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the arbitration panel, shall be selected by mutual agreement of the parties. In the event that the parties fail to select the neutral third member of the arbitration panel within thirty days from the date of impasse, the board shall ~~[request the American Arbitration Association, or its successor in function, to]~~ furnish a list of five ~~[qualified]~~ interest arbitrators from a list established pursuant to section 89-5(i)(6) from which the neutral arbitrator shall be selected. Within five days after receipt of the list, the parties shall alternately strike names from the list until a single name is left, who shall be immediately appointed by the board as the neutral arbitrator and chairperson of the arbitration panel.

Finally, the Board requests additional money for an additional researcher position and expenses required to carry out the additional duties. Thank you for the opportunity to testify today. We are available to answer any questions.

Attachment



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

The Thirtieth Legislature, State of Hawaii
The Senate
Committee on Labor, Culture and the Arts

Testimony by
Hawaii Government Employees Association

February 7, 2019

S.B. 1498 – RELATING TO THE HAWAII LABOR
RELATIONS BOARD

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 1498 which requires the Hawaii Labor Relations Board (“HLRB” or “Board”) to determine the qualifications of grievance arbitrators and interest arbitrators. Additionally, S.B. 1498 requires that the HLRB review and determine the qualifications and criteria for potential interest arbitrators.

There is a clear delineation between grievance arbitrators – who resolve disputes by applying the terms of an existing collective bargaining agreement, and interest arbitrators – who determine what terms shall be included in the bargaining agreement and by law must weigh the financial ability of the Employer to meet costs, the comparison of wages and conditions of employment with others performing similar services, and the current and future economic condition of the counties and the State. Due to the fundamental difference between resolving contractual disputes and determining the provisions of the contract, it is not only appropriate to statutorily segregate the functions of a grievance arbitrator and an interest arbitrator, but also necessary to empower the Board to determine the qualifications of each. As such, the amendments proposed in S.B. 1498 broaden the Board’s adjudicatory authority to include reviewing and determining the qualifications and criteria of interest arbitrators, and specifically, the list of five arbitrators provided pursuant to Section 89-11(e)(2)(A), Hawaii Revised Statutes, which is used to select the neutral arbitrator, and clarify that the list of five arbitrators from which the neutral arbitrator is selected must be qualified and experienced interest arbitrators.

Thank you for the opportunity to testify in strong support of S.B. 1498.

Respectfully submitted,

Randy Perreira
Executive Director



HAWAII FIRE FIGHTERS ASSOCIATION

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**THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019**

LATE

FEBRUARY 7, 2019

Committee on Labor, Culture and the Arts

**Testimony by
Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO**

S.B. No. 1498 RELATING TO THE HAWAII LABOR RELATIONS BOARD.

The Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO, represents more than 1,900 professional active-duty fire fighters throughout the State. The HFFA, on behalf of all of our members, **strongly supports Senate Bill 1498** which requires the Hawaii Labor Relations Board to determine qualifications for grievance arbitrators and interest arbitrators and requires the Hawaii Labor Relations Board to review and determine the qualifications and criteria for potential arbitrators selected under certain circumstances to resolve collective bargaining impasses.

HFFA is acutely aware that grievance arbitration and interest arbitrations differ in scope and requires potential arbitrators to have experience and knowledge of the type of arbitration. We believe it is in the best interest of all of the stakeholders that the list of arbitrators includes qualified candidates for the particular type of arbitrations.

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