

JAN 21 2022

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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. The legislature finds that in 1970, with the  
2 enactment of Hawaii's collective bargaining in public employment  
3 law, codified as chapter 89, Hawaii Revised Statutes, all public  
4 employees were provided with the right to strike. Eight years  
5 later, Act 108, Session Laws of Hawaii 1978, amended the law to  
6 require that members of bargaining unit (11), firefighters,  
7 submit to arbitration, which extinguished their right to strike.  
8 Slowly, the law requiring arbitration has expanded and now  
9 twelve of the fifteen bargaining units are prohibited from  
10 striking.

11           The legislature also finds that graduate assistants of the  
12 University of Hawaii are equally students and employees during  
13 their contractual period of assistantship. Graduate assistants  
14 face many employment issues that historically could be remedied  
15 through the right to unionize, including being subjected to  
16 budgetary setbacks, required increases in workload, questionable  
17 working conditions, years without a pay increase, poor job



1 security, a lack of sick and vacation leave, and few options to  
2 raise grievances.

3 Accordingly, the purpose of this Act is to allow graduate  
4 assistants employed by the University of Hawaii to collectively  
5 bargain and to repeal the mandatory arbitration requirements for  
6 certain collective bargaining units and to allow members of  
7 those collective bargaining units to strike.

8 SECTION 2. Section 89-6, Hawaii Revised Statutes, is  
9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) All employees throughout the State within any of the  
12 following categories shall constitute an appropriate bargaining  
13 unit:

- 14 (1) Nonsupervisory employees in blue collar positions;
- 15 (2) Supervisory employees in blue collar positions;
- 16 (3) Nonsupervisory employees in white collar positions;
- 17 (4) Supervisory employees in white collar positions;
- 18 (5) Teachers and other personnel of the department of  
19 education under the same pay schedule, including part-  
20 time employees working less than twenty hours a week  
21 who are equal to one-half of a full-time equivalent;



- 1           (6) Educational officers and other personnel of the
- 2           department of education under the same pay schedule;
- 3           (7) Faculty of the University of Hawaii and the community
- 4           college system;
- 5           (8) Personnel of the University of Hawaii and the
- 6           community college system, other than faculty;
- 7           (9) Registered professional nurses;
- 8           (10) Institutional, health, and correctional workers;
- 9           (11) Firefighters;
- 10          (12) Police officers;
- 11          (13) Professional and scientific employees, who cannot be
- 12          included in any of the other bargaining units;
- 13          (14) State law enforcement officers; [~~and~~]
- 14          (15) State and county ocean safety and water safety
- 15          officers[-]; and
- 16          (16) Graduate assistants employed by the University of
- 17          Hawaii."

18           2. By amending subsection (d) to read:

19           "(d) For the purpose of negotiating a collective

20 bargaining agreement, the public employer of an appropriate



1 bargaining unit shall mean the governor together with the  
2 following employers:

3 (1) For bargaining units (1), (2), (3), (4), (9), (10),  
4 (13), (14), and (15), the governor shall have six  
5 votes and the mayors, the chief justice, and the  
6 Hawaii health systems corporation board shall each  
7 have one vote if they have employees in the particular  
8 bargaining unit;

9 (2) For bargaining units (11) and (12), the governor shall  
10 have four votes and the mayors shall each have one  
11 vote;

12 (3) For bargaining units (5) and (6), the governor shall  
13 have three votes, the board of education shall have  
14 two votes, and the superintendent of education shall  
15 have one vote; and

16 (4) For bargaining units (7) [~~and~~], (8), and (16) the  
17 governor shall have three votes, the board of regents  
18 of the University of Hawaii shall have two votes, and  
19 the president of the University of Hawaii shall have  
20 one vote.



1 Any decision to be reached by the applicable employer group  
2 shall be on the basis of simple majority, except when a  
3 bargaining unit includes county employees from more than one  
4 county. In that case, the simple majority shall include at  
5 least one county."

6 3. By amending subsection (f) to read:

7 "(f) The following individuals shall not be included in  
8 any appropriate bargaining unit or be entitled to coverage under  
9 this chapter:

- 10 (1) Elected or appointed official;
- 11 (2) Member of any board or commission; provided that  
12 nothing in this paragraph shall prohibit a member of a  
13 collective bargaining unit from serving on a governing  
14 board of a charter school, on the state public charter  
15 school commission, or as a charter school authorizer  
16 established under chapter 302D;
- 17 (3) Top-level managerial and administrative personnel,  
18 including the department head, deputy or assistant to  
19 a department head, administrative officer, director,  
20 or chief of a state or county agency or major  
21 division, and legal counsel;



- 1           (4) Secretary to top-level managerial and administrative
- 2                    personnel under paragraph (3);
- 3           (5) Individual concerned with confidential matters
- 4                    affecting employee-employer relations;
- 5           (6) Part-time employee working less than twenty hours per
- 6                    week, except part-time employees included in [~~unit~~
- 7                    units (5) [+] and (16);
- 8           (7) Temporary employee of three months' duration or less;
- 9           (8) Employee of the executive office of the governor or a
- 10                   household employee at Washington Place;
- 11           (9) Employee of the executive office of the lieutenant
- 12                   governor;
- 13           (10) Employee of the executive office of the mayor;
- 14           (11) Staff of the legislative branch of the State;
- 15           (12) Staff of the legislative branches of the counties,
- 16                   except employees of the clerks' offices of the
- 17                   counties;
- 18           (13) Any commissioned and enlisted personnel of the Hawaii
- 19                   national guard;.
- 20           (14) Inmate, kokua, patient, ward, or student of a state
- 21                   institution;



- 1 (15) Student help[+], except for graduate assistants
- 2 employed by the University of Hawaii;
- 3 (16) Staff of the Hawaii labor relations board;
- 4 (17) Employees of the Hawaii national guard youth challenge
- 5 academy; or
- 6 (18) Employees of the office of elections."

7 SECTION 3. Section 89-11, Hawaii Revised Statutes, is  
 8 amended by amending subsections (d) and (e) to read as follows:

9 "(d) If an impasse exists between a public employer and  
 10 the exclusive bargaining representative of bargaining unit (1),  
 11 nonsupervisory employees in blue collar positions; bargaining  
 12 unit (2), supervisory employees in blue collar positions;  
 13 bargaining unit (3), nonsupervisory employees in white collar  
 14 positions; bargaining unit (4), supervisory employees in white  
 15 collar positions; bargaining unit (5), teachers and other  
 16 personnel of the department of education; [e] bargaining unit  
 17 (6), educational officers and other personnel of the department  
 18 of education under the same salary schedule; bargaining unit  
 19 (7), faculty of the University of Hawaii and the community  
 20 college system[+]; bargaining unit (8), personnel of the  
 21 University of Hawaii and the community college system, other



1 than faculty; bargaining unit (9), registered professional  
2 nurses; bargaining unit (13), professional and scientific  
3 employees; bargaining unit (14), state law enforcement officers;  
4 bargaining unit (15), state and county ocean safety and water  
5 safety officers; or bargaining unit (16), graduate assistants  
6 employed by the University of Hawaii, the board shall assist in  
7 the resolution of the impasse as follows:

- 8       (1) Voluntary mediation. During the first twenty days of  
9           the date of impasse, either party may request the  
10          board to assist in a voluntary resolution of the  
11          impasse by appointing a mediator or mediators,  
12          representative of the public from a list of qualified  
13          persons maintained by the board;
- 14       (2) Mediation. If the impasse continues more than twenty  
15          days, the board shall appoint a mediator or mediators  
16          representative of the public from a list of qualified  
17          persons maintained by the board, to assist the parties  
18          in a voluntary resolution of the impasse. The board  
19          may compel the parties to attend mediation, reasonable  
20          in time and frequency, until the fiftieth day of





1           impasse. Thereafter, mediation shall be elective with  
2           the parties, subject to the approval of the board;

3           (3) Report of the board. The board shall promptly report  
4           to the appropriate legislative body or bodies the  
5           following circumstances as each occurs:

6           (A) The date of a tentative agreement and whether the  
7           terms thereof are confidential between the  
8           parties;

9           (B) The ratification or failure of ratification of a  
10          tentative agreement;

11          (C) The signing of a tentative agreement;

12          (D) The terms of a tentative agreement; or

13          (E) On or about the fiftieth day of impasse, the  
14          failure of mediation.

15          The parties shall provide the board with the requisite  
16          information; and

17          (4) After the fiftieth day of impasse, the parties may  
18          resort to [~~such~~] other remedies that are not  
19          prohibited by any agreement pending between them,  
20          other provisions of this chapter, or any other law.



1 (e) If an impasse exists between a public employer and the  
 2 exclusive representative of [~~bargaining unit (2), supervisory~~  
 3 ~~employees in blue collar positions; bargaining unit (3),~~  
 4 ~~nonsupervisory employees in white collar positions; bargaining~~  
 5 ~~unit (4), supervisory employees in white collar positions;~~  
 6 ~~bargaining unit (6), educational officers and other personnel of~~  
 7 ~~the department of education under the same salary schedule;~~  
 8 ~~bargaining unit (8), personnel of the University of Hawaii and~~  
 9 ~~the community college system, other than faculty; bargaining~~  
 10 ~~unit (9), registered professional nurses;] bargaining unit (10),  
 11 institutional, health, and correctional workers; bargaining unit  
 12 (11), firefighters; or bargaining unit (12), police officers[~~+~~  
 13 ~~bargaining unit (13), professional and scientific employees;~~  
 14 ~~bargaining unit (14), state law enforcement officers; or~~  
 15 ~~bargaining unit (15), state and county ocean safety and water~~  
 16 ~~safety officers], the board shall assist in the resolution of  
 17 the impasse as follows:~~~~

18 (1) Mediation. During the first twenty days after the  
 19 date of impasse, the board shall immediately appoint a  
 20 mediator, representative of the public from a list of



1 qualified persons maintained by the board, to assist  
2 the parties in a voluntary resolution of the impasse.

3 (2) Arbitration. If the impasse continues twenty days  
4 after the date of impasse, the board shall immediately  
5 notify the employer and the exclusive representative  
6 that the impasse shall be submitted to a three-member  
7 arbitration panel who shall follow the arbitration  
8 procedure provided herein.

9 (A) Arbitration panel. Two members of the  
10 arbitration panel shall be selected by the  
11 parties; one shall be selected by the employer  
12 and one shall be selected by the exclusive  
13 representative. The neutral third member of the  
14 arbitration panel, who shall chair the  
15 arbitration panel, shall be selected by mutual  
16 agreement of the parties. In the event that the  
17 parties fail to select the neutral third member  
18 of the arbitration panel within thirty days from  
19 the date of impasse, the board shall request the  
20 American Arbitration Association, or its  
21 successor in function, to furnish a list of five



1 qualified and experienced interest arbitrators  
2 from which the neutral arbitrator shall be  
3 selected. Within five days after receipt of the  
4 list, the parties shall alternately strike names  
5 from the list until a single name is left, who  
6 shall be immediately appointed by the board as  
7 the neutral arbitrator and chairperson of the  
8 arbitration panel.

9 (B) Final positions. Upon the selection and  
10 appointment of the arbitration panel, each party  
11 shall submit to the panel, in writing, with copy  
12 to the other party, a final position that shall  
13 include all provisions in any existing collective  
14 bargaining agreement not being modified, all  
15 provisions already agreed to in negotiations, and  
16 all further provisions that each party is  
17 proposing for inclusion in the final agreement;  
18 provided that [~~such~~] further provisions shall be  
19 limited to those specific proposals that were  
20 submitted in writing to the other party and were  
21 the subject of collective bargaining between the



1 parties up to the time of the impasse, including  
2 those specific proposals that the parties have  
3 decided to include through a written mutual  
4 agreement. The arbitration panel shall decide  
5 whether final positions are compliant with this  
6 provision and which proposals may be considered  
7 for inclusion in the final agreement.

8 (C) Arbitration hearing. Within one hundred twenty  
9 days of its appointment, the arbitration panel  
10 shall commence a hearing at which time the  
11 parties may submit, either in writing or through  
12 oral testimony, all information or data  
13 supporting their respective final positions. The  
14 arbitrator, or the chairperson of the arbitration  
15 panel together with the other two members, are  
16 encouraged to assist the parties in a voluntary  
17 resolution of the impasse through mediation, to  
18 the extent practicable throughout the entire  
19 arbitration period until the date the panel is  
20 required to issue its arbitration decision.



1 (D) Arbitration decision. Within thirty days after  
2 the conclusion of the hearing, a majority of the  
3 arbitration panel shall reach a decision pursuant  
4 to subsection (f) on all provisions that each  
5 party proposed in its respective final position  
6 for inclusion in the final agreement and transmit  
7 a preliminary draft of its decision to the  
8 parties. The parties shall review the  
9 preliminary draft for completeness, technical  
10 correctness, and clarity and may mutually submit  
11 to the panel any desired changes or adjustments  
12 that shall be incorporated in the final draft of  
13 its decision. Within fifteen days after the  
14 transmittal of the preliminary draft, a majority  
15 of the arbitration panel shall issue the  
16 arbitration decision."

17 SECTION 4. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$ or so  
19 much thereof as may be necessary for fiscal year 2022-2023 for  
20 collective bargaining expenses related to graduate assistants  
21 employed by the University of Hawaii.



1           The sum appropriated shall be expended by the University of  
2 Hawaii for the purposes of this Act.

3           SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6           SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 7. This Act shall take effect upon its approval  
9 and shall apply to public sector collective bargaining contracts  
10 executed on or after its effective date; provided that section 4  
11 shall take effect on July 1, 2022.

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INTRODUCED BY: \_\_\_\_\_

*Jana Acasio*



# S.B. NO. 2832

**Report Title:**

Collective Bargaining; UH; Graduate Assistants; Mandatory Arbitration; Strike; Appropriation

**Description:**

Establishes a collective bargaining unit for graduate assistants employed by the University of Hawaii. Repeals the mandatory arbitration requirement for collective bargaining units (2), (3), (4), (6), (8), (9), (13), (14), and (15). Appropriates moneys.

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

