



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 340, S.D. 1, RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 21, 2025

TIME: 10:20 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact James E. Halvorson,
Deputy Attorney General, at 808-587-2900)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

The intent of this bill is to provide the Hawaii Labor Relations Board (HLRB) with the authority to enforce its own orders.

The current law requires HLRB to petition the circuit court to enforce the orders of HLRB. See section 377-9(e), Hawaii Revised Statutes (HRS). This is the norm, even for boards that head departments, and recognizes that courts are the appropriate venue to seek enforcement of administrative orders. See, e.g., section 171-6.4, HRS (requiring the Board of Land and Natural Resources to bring a legal action to recover administrative fines, fees, and costs, or payment of damages).

This bill, which would allow an administrative agency to enforce its own orders, is inconsistent with the interests of justice where appropriate relief can already be obtained in the courts, which is the proper venue for the enforcement of administrative orders, and provides all parties with the safeguards of judicial procedures and due process.

The Department opposes this bill and respectfully requests that the bill be held. Thank you for the opportunity to present this testimony.

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INTERIM CHAIRPERSON



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WRITTEN ONLY

Testimony Presented Before the
Senate Committee on Judiciary
The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair

Friday, February 21, 2025 at 10:20 a.m.
Via Videoconference
Conference Room 016, State Capitol

by Dwight Takamine
Interim Chairperson, Hawai'i Labor Relations Board

S.B. No. 340, S.D. 1, Relating to Collective Bargaining in Public Employment

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Hawai'i Labor Relations Board (HLRB or Board) supports S.B. No. 340, S.D. 1, which seeks to clarify that the Board has the authority to enforce its own orders under Hawai'i Revised Statutes (HRS) Chapter 89, Collective Bargaining in Public Employment, in addition to its discretion to seek judicial enforcement of its orders under HRS Chapter 377, Hawaii Employment Relations Act, but respectfully requests that this Committee amend SECTION 3 of the bill to make the Act effective upon its approval.

The HLRB is a quasi-judicial agency that administers, among other things, public sector collective bargaining and prohibited practices under HRS Chapter 89 and certain private sector collective bargaining and unfair labor practices under HRS Chapter 377.

Under HRS §89-14, the Board has exclusive original jurisdiction over prohibited practice cases. In exercising its jurisdiction, the Board, pursuant to HRS §89-5(i)(4), is empowered to “[c]onduct proceedings on complaints of prohibited practices...and take such actions with respect thereto **as it deems necessary and proper.**” (emphasis added).

HRS §89-14 further provides that “[a]ny controversy concerning prohibited practices may be submitted to the board in the same manner and with the same effect as provided in section 377-9.”

HRS §377-9(e) provides that the Board “**may**” (emphasis added) petition the appropriate circuit court to enforce an order of the Board. Plainly, HRS §377-9(e) does not require the Board to petition the circuit court to enforce its own orders.

Additionally, HRS §377-9(h) provides that “[c]ommencement of proceedings under subsection (f) [judicial review] of this section shall not stay enforcement of the board decisions or order; but the board, or the reviewing court may order a stay upon such terms as it deems proper.” In other words, even where there is judicial review, the Board’s decision or order is not automatically stayed and is enforceable.

In fact, the HLRB’s Hawai‘i Administrative Rules (HAR) Title 12, Chapter 43, which are authorized, implemented, and interpreted, in pertinent part, by provisions of HRS Chapters 89 and 377, provide alternative mechanisms for the Board to enforce its own orders.

Specifically, in addition to HAR §12-43-39, which allows the Board discretion to petition the circuit court to enforce an order or for appropriate temporary relief or restraining order, HAR §12-43-66(b) authorizes the Board to impose civil penalties against an employer or employee who “wilfully or repeatedly commits unfair or prohibited practices that interfere with the statutory rights of an employer or employees, or discriminates against an employer or employees for the exercise of protected conduct.”

Furthermore, HRS §89-18 authorizes the Board to impose fines against “[a]ny person who wilfully assaults, resists, prevents, impedes, or interferes with any member of the board or any of its agents or employees in the performance of duties.” *See also* HAR §12-43-18 (allowing the Board to impose fines for contemptuous conduct).

To summarize, this measure makes no substantive changes to HRS Chapter 89 but simply clarifies the Board’s existing authority to enforce its own orders under current law.

Thank you for the opportunity to provide testimony in support of S.B. No. 340, S.D. 1, and for your consideration of the HLRB’s request to amend SECTION 3 of the bill to make the Act effective upon its approval.