

ACT 244

A Bill for an Act Relating to the Hawaii Employment Relations Act, and Amending Chapter 90, Revised Laws of Hawaii 1955, as Amended.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subsection (f) of section 90-2, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(f) ‘Collective bargaining unit’ means all of the employees of one employer (employed within the State), except that where the board has determined and certified that such employees engaged in a single craft, division, department or plant as provided in section 90-6(b) constitute a separate bargaining unit they shall be so considered. Two or more collective bargaining units may bargain collectively through the same representative where a majority of the employees or each

separate unit have voted by secret ballot as provided in section 90-6(c) so to do."

SECTION 2. Section 90-3, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"Section 90-3. Hawaii employment relations board. There shall be within the department of labor and industrial relations a commission to be known as the Hawaii employment relations board. Such board shall consist of five members. Two of the members shall be representatives from labor, two from management and one from the public. One labor member and one management member shall be from the City and County of Honolulu, and one labor and one management member shall be from outside the City and County of Honolulu. The director shall have general administrative supervision over the board, but shall not have the power to supervise or control the board in the exercise of its powers or duties under the Hawaii employment relations act. The board may appoint a hearings officer or officers as required to perform its responsibilities.

Upon the expiration of the term of each member, his successor shall be appointed for a term to expire four years from the date of the expiration of the preceding term. Any vacancy in the board occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term. Members shall be eligible for reappointment. The governor shall designate the public member to serve as chairman. Each member shall take and file the official oath. Each member of the board shall be paid compensation for his services at the rate of \$15 per day for each day's performance upon his duties or the work of the board. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board and three members of the board shall constitute a quorum, but the governor may appoint a temporary alternate to act in the place of any member who is ill, absent, or for any other reason unable to attend.

The board shall have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words 'Hawaii Employment Relations Board-Seal'.

The board shall employ, on a part-time basis, qualified attorneys who are licensed to practice in all the courts of the State to serve as its hearings officers, at its pleasure, and shall not be subject to the civil service laws of the State. It shall also fix the compensation of said employees. Such part-time employment may be temporary or permanent, but in no case shall any such person be employed on less than 1/2 time basis.

The board may also in conformity with section 9-2 employ and remove other counsel who are licensed to practice in all the courts of the State, and fix their compensation. Such counsel may, at the direction of the board, appear for and represent the board in any case in court. The appointment of persons as counsel shall not be subject to the civil service laws of this State.

The board may employ, promote, and remove an executive secretary on a full-time basis without regard to chapters 3 and 4. The board may also employ, promote, and remove a secretary, clerks, stenographers, and other assistants under such existing civil service and classification laws as may be applicable; provided, in the event the board determines that the performance of its functions does not require the services of a person in any of the positions, then the board may employ and fix the compensation of such person to fill any of such positions from time to time on either a part-time or temporary basis without regard to chapters 3 and 4.

The reasonable and necessary traveling and other expenses of the board and employees thereof, while actually engaged in the performance of their duties shall be paid from the State treasury upon the audit and warrant of the treasurer, upon vouchers signed by the chairman, or any three members, of the board.

At the close of each fiscal year the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and its disposition of the same, and the names, duties and salaries of its officers and employees."

SECTION 3. Subsections (b) and (d) of section 90-6, Revised Laws of Hawaii 1955, as amended, are hereby amended to read as follows:

"(b) Whenever a question arises concerning the determination of a collective bargaining unit as defined in section 90-2, the board, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this chapter, shall conduct an appropriate hearing upon due notice and it shall decide in each case the unit appropriate for the purpose of collective bargaining."

"(d) Questions concerning the representation of employees may be raised by petition of any employee, or group of employees, or his representative, or labor organization acting in their behalf, or by petition of his employer in the case of jurisdictional disputes or in any case after a union has requested recognition. Where it appears by the petition that an emergency exists requiring prompt action, the board shall act upon the petition forthwith and hold the election requested within such time as will meet the requirements of the emergency presented. The fact that one election has been held shall not prevent the holding of another election among the same group of employees, if it appears to the board that sufficient reason therefor exists. In any election where the choices on the ballot do not receive a majority, a run-off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election."

SECTION 4. Subsection (b) of section 90-10, Revised Laws of Hawaii 1955, as amended, is hereby amended so that where the term "examiner" appears, the phrase "hearings officer" shall be substituted.

Subsection (c) of section 90-10, Revised Laws of Hawaii 1955, as

amended, is hereby amended to read as follows:

“(c) A full and complete record shall be kept of all proceedings had before the board and all testimony and proceedings shall be taken down by a reporter engaged for such purpose or by use of a mechanical recording device. It shall not be necessary to transcribe the record unless requested for purposes of re-hearing or court review. In such proceedings the board shall not be bound by technical rules of evidence. No hearsay evidence, however, shall be admitted or considered.”

SECTION 5. Section 90-10, Revised Laws of Hawaii 1955, as amended, is amended so that where the term “examiner” appears, the phrase “hearings officer” shall be substituted.

Subsection (h) of section 90-10, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(h) Commencement of proceedings under subsection (f) 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.”

SECTION 6. Section 90-12, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Section 90-12. Rules and Regulations.** The board may adopt rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with the provisions of Chapter 6C.”

SECTION 7. This Act shall take effect upon its approval.
(Approved July 9, 1965.) **H.B. 1223.**