

A Bill for an Act Relating to the Hawaii Employment Relations Act.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 377-1, Hawaii Revised Statutes, is amended to read:

“§377-1 Definitions. When used in this chapter:

- (1) ‘Person’ includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, or receivers.
- (2) ‘Employer’ means a person who engages the services of an employee, and includes any person acting on behalf of an employer, but shall not include the State or any political subdivision thereof, or any labor organization or anyone acting in behalf of such organization other than when it is acting as an employer in fact.
- (3) ‘Employee’ includes any person, other than an independent contractor, working for another for hire in the State, and shall not be limited to the employees of a particular employer unless the context clearly indicates otherwise; and includes any individual whose work has ceased solely as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of an employer and (A) who has not refused or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or his representatives, (B) who has not been found to be committing or a party to any unfair labor practice hereunder, (C) who has not obtained regular and substantially equivalent employment elsewhere, or (D) who has not been absent from his employment for a substantial period of time during which reasonable expectancy of settlement has ceased (except by an employer’s unlawful refusal to bargain) and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout; but shall not include any individual employed in the domestic service of a family or person at his home or any individual employed by his parent or spouse, or any person employed in an executive or supervisory capacity, or any individual employed by any employer employing less than two individuals, or any individual subject to the jurisdiction of the Federal Railway Labor Act or the National Labor Relations Act, as amended from time to time; provided, that the term ‘employee’ includes any individual subject to the jurisdiction of the National Labor Relations Act, as amended from time to time, but over whom the National Labor Relations Board has declined to exercise jurisdiction or has indicated by its decisions and policies that it will not assume jurisdiction.
- (4) ‘Representative’ includes any person chosen by an employee to represent him.
- (5) ‘Collective bargaining’ is the negotiating by an employer and a ma-

- jority of his employees in a collective bargaining unit (or their representatives) concerning representation or terms and conditions of employment of such employees in a mutually genuine effort to reach an agreement with reference to the subject under negotiation.
- (6) '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 377-5 (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 377-5(c) so to do.
- (7) 'Unfair labor practice' means any unfair labor practice as defined in section 377-6 to 377-8.
- (8) 'Labor dispute' includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.
- (9) 'All union agreement' means an agreement between an employer and the representative of his employees in a collective bargaining unit whereby all of the employees in such unit are required to be members of a single labor organization.
- (10) 'Board' means the Hawaii employment relations board, provided for by section 26-20 and 377-2.
- (11) 'Election' means a proceeding in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives or for any other purpose specified in this chapter and shall include elections conducted by the board, or, unless the context clearly indicates otherwise, by any tribunal having competent jurisdiction or whose jurisdiction was accepted by the parties.
- (12) 'Secondary boycott' includes combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by (A) withholding patronage, labor, or other beneficial business intercourse, (B) picketing, (C) refusing to handle, install, use, or work on particular materials, equipment, or supplies, or (D) by any other unlawful means, in order to bring him against his will into a concerted plan to coerce or inflict damage upon another.
- (13) 'Person employed in an executive or supervisory capacity' means any employee who has the authority to hire or fire other employees or whose suggestions and recommendations as to hiring or firing and as to the advancement, promotion, or demotion of other employees will be given particular weight; but shall not mean registered nurses whose compensation is determined on an hourly basis or who are subject to supervision by any person other than the person in charge of all registered nurses at the employer's premises."

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SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved May 24, 1971.)

* Edited accordingly.