

## ACT 219

S.B. NO. 1115

A Bill for an Act Relating to Collective Bargaining in Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding any other law to the contrary, if a dispute between a public employer and the exclusive representative of optional appropriate bargaining unit (11), firefighters, or optional appropriate bargaining unit (12), police officers, exists over the terms of an initial or renewed agreement[,] more than ninety working days after written notification by either party to initiate negotiations, either party may give written notice to the board that an impasse exists and the board shall assist in the voluntary resolution of the impasse by appointing a mediator within three days after the date of impasse. If the dispute continues to exist fifteen working days after the date of impasse, the dispute shall be submitted to arbitration proceedings as provided herein.

The board shall immediately determine whether the parties to the dispute have mutually agreed upon an arbitration procedure and whether the parties have agreed upon a person or persons whom the parties desire to be appointed as the arbitrator or as a panel of arbitrators, as the case may be.

If the board determines that an arbitration procedure mutually agreed upon by the parties will result in a final and binding decision, and that an arbitrator or arbitration panel has been mutually agreed upon, it shall appoint such arbitrator or arbitration panel and permit the parties to proceed with the arbitration procedure mutually agreed upon.

If, after eighteen working days from the date of impasse the parties have not mutually agreed upon an arbitration procedure and an arbitrator or arbitration panel, the board shall immediately notify the employer and the exclusive representative that the issues in dispute shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

Within twenty-one working days from the date of impasse, 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 impartial third member of the arbitration panel shall be selected by the two previously selected panel members and shall chair the arbitration panel.

In the event that the two previously selected arbitration panel members fail to select an impartial third arbitrator within twenty-four working 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 arbitrators from which the impartial arbitrator shall be selected.

Within five calendar days after receipt of such list, the parties shall alternately strike names therefrom until a single name is left, who shall be immediately appointed by the board as the impartial arbitrator and chairman of the arbitration panel.

Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a complete final offer which shall constitute a complete agreement and shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions it is proposing for inclusion in the final agreement.

Within twenty calendar days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final offers. Nothing in this section shall be construed to prohibit the parties from reaching a voluntary settlement on the unresolved issues, with or without the assistance of a mediator, at any time prior to the conclusion of the hearing conducted by the arbitration panel.

Within thirty calendar days after the conclusion of the hearing, a majority of the arbitration panel shall [select the most reasonable of the complete final offers submitted by the parties and shall issue a final and binding decision incorporating that offer without modification.] issue a final and binding decision.

In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision.

- (1) The lawful authority of the employer.

- (2) Stipulations of the parties.
- (3) The interests and welfare of the public.
- (4) The financial ability of the employer to meet these costs.
- (5) The present and future general economic condition of the counties and the State.
- (6) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other persons performing similar services, and of other State and county employees [generally.] in Hawaii.
- (7) The average consumer prices for goods for services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (9) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (10) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration, or otherwise between the parties, in the public service or in private employment.

The decision of the arbitration panel shall be final and binding upon the parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. The parties may, at any time and by mutual agreement, amend or modify the decision.

Agreements reached pursuant to the decision of an arbitration panel as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies.

The costs for mediation shall be borne by the board. All other costs incurred by either party in complying with these provisions, including the costs of its selected member on the arbitration panel, shall be borne by the party incurring them, except that all costs and expenses of the impartial arbitrator shall be borne equally by the parties.”

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other

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provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved May 31, 1984.)