

ACT 106

H.B. NO. 2329

A Bill for an Act Relating to Managed Competition.

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

SECTION 1. Section 46-36, Hawaii Revised Statutes, is amended to read as follows:

“~~§46-36~~ Authority of counties to engage in the process of managed competition; established. (a) Subject to the approval of the governor and the respective mayor of the county, the agency designated by the mayor with the responsibility to oversee the managed process for public-private competition for government services shall:

- (1) Assist the mayor in formulating the county’s philosophy for public collective bargaining and for the managed process for public-private competition for government services, including which particular service can be provided more efficiently, effectively, and economically considering all relevant costs; and
- (2) Coordinate and negotiate the terms and conditions or the managed competition process on behalf of the county with exclusive representatives of affected public employees and private contractors.

(b) If a county executes a contract with a private contractor pursuant to the managed competition process authorized under this section, the county may use the layoff provisions of the civil service laws and the respective collective bargaining contracts to release employees displaced from their positions by the managed competition process. Prior to implementing any layoff provision of the civil service laws or a collective bargaining contract, the county shall use its resources for placing, retraining, and providing voluntary severance incentives for displaced employees. Methods that may be used to minimize or avoid the adverse effects of an agency’s decision to secure needed services from contractors may include:

- (1) Coordination with the private service provider awarded the contract under this section to continue a displaced employee’s employment as an employee of the contractor;
- (2) Reassignment to another civil service position the employee is qualified to fill;
- (3) Retraining to qualify the employee for reassignment; and
- (4) Severance incentives.

(c) As used in this section, “managed competition” means the process established in this section by which the county and a private contractor compete to provide government services.”

SECTION 2. Section 89A-1, Hawaii Revised Statutes, is amended to read as follows:

“§89A-1 Office of collective bargaining and managed competition. (a) There shall be established an office of collective bargaining and managed competition in the office of the governor to assist the governor in implementation and review of the managed process of public-private competition for particular government services through the managed competition process and negotiations between the State and the exclusive representatives on matters of wages, hours, and other negotiable terms and conditions of employment.

(b) The position of chief negotiator for the State is hereby established to head the office. The chief negotiator shall be experienced in labor relations. The governor

shall appoint the chief negotiator and may also appoint deputy negotiators to assist the chief negotiator. The governor, at pleasure, may remove the chief negotiator and any deputy negotiator. All other employees shall be appointed by the chief negotiator. All employees in the office of collective bargaining and managed competition shall be included in any benefit programs generally applicable to employees of the State.

(c) Subject to the approval of the governor, the office of collective bargaining and managed competition shall:

- (1) Assist the governor in formulating the State's philosophy for public collective bargaining and for the managed process for public-private competition for government services, including which particular service can be provided more efficiently, effectively, and economically considering all relevant costs; and
- (2) Coordinate and negotiate the managed competition process on behalf of the State with exclusive representatives of affected public employees and private contractors.

(d) No employee of the office of collective bargaining and managed competition shall be included in the civil service, any civil service classification system, or any appropriate bargaining unit; provided that any civil service position in existence on July 1, 2002, shall not be exempted from civil service until the incumbent in that position on July 1, 2002, vacates that position.

(e) If the State executes a contract with a private contractor pursuant to the managed competition process authorized under this section, the State may use the layoff provisions of the civil service laws and the respective collective bargaining contracts to release employees displaced from their positions by the managed competition process. Prior to implementing any layoff provision of the civil service laws or a collective bargaining contract, the State shall use its resources for placing, retraining, and providing voluntary severance incentives for displaced employees. Methods that may be used to minimize or avoid the adverse effects of an agency's decision to secure needed services from contractors may include:

- (1) Coordination with the private service provider awarded the contract under this section to continue a displaced employee's employment as an employee of the contractor;
- (2) Reassignment to another civil service position the employee is qualified to fill;
- (3) Retraining to qualify the employee for reassignment; and
- (4) Severance incentives.

(f) As used in this section, "managed competition" means the process established in this section by which the State and a private contractor compete to provide government services."

SECTION 3. Section 89A-2, Hawaii Revised Statutes, is amended to read as follows:

"[E]§89A-2[] Functions of the office of collective bargaining[] and managed competition. In addition to the powers and functions provided in other sections of this chapter, and subject to the approval of the governor, the office of collective bargaining and managed competition shall:

- (1) Assist the governor in formulating plans, including objectives, criteria to measure management's accomplishment of objectives, and programs through which the objectives are to be attained;
- (2) Assist the governor in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;

- (3) Conduct negotiations with the exclusive representatives of each employee organization and designate employer spokespersons for each negotiation;
- (4) Coordinate the State's resources in all mediation, fact-finding and interest arbitration cases as well as in all labor disputes;
- (5) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;
- (6) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;
- (7) Coordinate the establishment of cost data negotiated with each exclusive representative and assist the governor in making recommendations with respect thereto to the legislative bodies;
- (8) Prepare and submit an annual report and such other reports as may be requested to the governor and to the legislature on the implementation of the collective bargaining act."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2002.

(Approved May 31, 2002.)