

ACT 141

S.B. NO. 2718

A Bill for an Act Related to Administrative Procedures.

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

SECTION 1. The legislature finds that the Hawaii labor relations board is a quasi-judicial administrative agency that oversees collective bargaining, unfair labor practices, and contests involving citations or orders of the director of labor and industrial relations regarding the State's occupational safety and health laws. Existing law appears to contradict itself with regard to whether the Hawaii labor relations board is permitted to admit or consider hearsay evidence in its proceedings. Under existing law, the Hawaii labor relations board is prohibited from considering hearsay evidence, meaning it is unable to consider all evidence presented in its deliberations and assign the evidence the proper weight. However, there are a myriad of exceptions in the Hawaii Rules of Evidence that allow certain types of hearsay evidence to be admissible, meaning certain evidence could be properly introduced in any other court or administrative proceeding under a hearsay exception. Furthermore, the restriction imposed on the Hawaii labor relations board conflicts with general principles that proceedings before administrative boards are more flexible and should not be bound by the rules of technical evidence.

Accordingly, the purpose of this Act is to allow the Hawaii labor relations board to admit and consider hearsay evidence.

SECTION 2. Section 377-9, Hawaii Revised Statutes, is amended by amending subsection (c) 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 rehearing or court review. In the proceedings the board shall not be bound by technical rules of evidence. ~~[No hearsay evidence, however, shall be admitted or considered.]”~~

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect on July 1, 2024.

(Approved July 1, 2024.)