

A Bill for an Act Relating to Unfair Labor Practices.

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

SECTION 1. Section 377-6, Hawaii Revised Statutes, is amended to read as follows:

**“§377-6 Unfair labor practices of employers.** It shall be an unfair labor practice for an employer individually or in concert with others~~[-]~~ to:

- (1) ~~[To interfere]~~ Interfere with, restrain, or coerce the employer’s employees in the exercise of the rights guaranteed in section 377-4;
- (2) ~~[To initiate,]~~ Initiate, create, dominate, or interfere with the formation or administration of any labor organization or contribute financial support to it~~[-but];~~ provided that an employer shall not be prohibited from reimbursing employees at their prevailing wage rate for time spent conferring with the employer, nor from cooperating with representatives of at least a majority of the employer’s employees in a collective bargaining unit, at their request, by permitting employee organizational activities on employer premises or the use of employer facilities where the activities or use create no additional expense to the employer;
- (3) ~~[To encourage]~~ Encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, or other terms or conditions of employment~~[-An employer, however,];~~ provided that an employer may enter into an all-union agreement with the bargaining representative of the employer’s employees in a collective bargaining unit, unless the board has certified that at least a majority of the employees have voted to rescind the authority of their bargaining representative to negotiate [such] the all-union agreement within one year preceding the date of the agreement. No employer shall justify any discrimination against any employee for nonmembership in a labor organization if the employer has reasonable grounds for believing that:
  - (A) ~~[Such membership]~~ Membership was not available to the employee on the same terms and conditions generally applicable to other members; or
  - (B) ~~[Or that membership]~~ Membership was denied or terminated for reasons other than the failure of the employee to tender periodic dues and the initiation fees uniformly required as a condition for acquiring or retaining membership;
- (4) ~~[To refuse]~~ Refuse to bargain collectively with the representative of a majority of the employer’s employees in any collective bargaining unit; provided that if the employer has good faith doubt that a union represents a majority of the employees, the employer may file a representation petition for an election and shall not be deemed guilty of refusal to bargain;
- (5) ~~[To bargain]~~ Bargain collectively with the representatives of less than a majority of the employer’s employees in a collective bargaining unit, or to enter into an all-union agreement except in the manner provided in paragraph (3);
- (6) ~~[To violate]~~ Violate the terms of a collective bargaining agreement;

- (7) ~~[To refuse]~~ Refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination of the board or of any tribunal of competent jurisdiction;
- (8) ~~[To discharge]~~ Discharge or otherwise discriminate against an employee because the employee has filed charges or given information or testimony under the provisions of this chapter;
- (9) ~~[To deduct]~~ Deduct labor organization dues or assessments from an employee's earnings, unless the employer has been presented with an individual order therefor, signed by the employee personally;
- (10) ~~[To employ]~~ Employ any person to spy upon employees or their representatives respecting their exercise of any right created or approved by this chapter;
- (11) ~~[To make,]~~ Make, circulate, or cause to be circulated a blacklist;
- (12) ~~[To offer]~~ Offer or grant permanent employment to an individual for performing work as a replacement for a bargaining unit member during a labor dispute; [ø#]
- (13) Based on employment or willingness to be employed during a labor dispute, [tø] give employment preference to one person over another who:
- (A) Was an employee at the commencement of the dispute;
- (B) Exercised the right to join, assist, or engage in lawful collective bargaining or mutual aid or protection through the labor organization engaged in the dispute; and
- (C) Continues to work for or has unconditionally offered to return to work for the employer[-]; or
- (14) Discharge, discipline, or otherwise penalize or threaten any adverse employment action against an employee because the employee declines to:
- (A) Attend or participate in an employer-sponsored meeting, or any portion of a meeting, that communicates the opinion of the employer about political matters; or
- (B) Receive or listen to a communication from the employer that communicates the opinion of the employer about political matters;

provided that this paragraph shall not limit the rights of an employer to conduct meetings or to engage in communications involving political matters as long as attendance by the employees is wholly voluntary.

For purposes of this paragraph:

"Employee" has the same meaning as defined in section 377-1; provided that "employee" includes any individual employed in the domestic service of a family or person at the family's or person's home; any individual employed by the individual's parent or spouse; any individual employed in an executive or supervisory capacity; 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.

"Political matters" means anything related to an attempt to influence a future vote by persons in an audience."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

