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# A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to establish a new  
2 collective bargaining unit for employees of the Hawaii health  
3 systems corporation, excluding:

4           (1) Nonsupervisory employees in blue collar positions; and

5           (2) Institutional, health, and correctional workers.

6           SECTION 2. Section 89-6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§89-6 Appropriate bargaining units.** (a) All employees  
9 throughout the [~~State~~] state within any of the following  
10 categories shall constitute an appropriate bargaining unit:

11           (1) Nonsupervisory employees in blue collar positions;

12           (2) Supervisory employees in blue collar positions;

13           (3) Nonsupervisory employees in white collar positions;

14           (4) Supervisory employees in white collar positions;

15           (5) Teachers and other personnel of the department of  
16 education under the same pay schedule, including part-  
17 time employees working less than twenty hours a week  
18 who are equal to one-half of a full-time equivalent;



- 1 (6) Educational officers and other personnel of the  
2 department of education under the same pay schedule;
- 3 (7) Faculty of the University of Hawaii and the community  
4 college system;
- 5 (8) Personnel of the University of Hawaii and the  
6 community college system, other than faculty;
- 7 (9) Registered professional nurses;
- 8 (10) Institutional, health, and correctional workers;
- 9 (11) Firefighters;
- 10 (12) Police officers; ~~[and]~~
- 11 (13) Professional and scientific employees, who cannot be  
12 included in any of the other bargaining units~~[-]~~; and
- 13 (14) Employees of the Hawaii health systems corporation.
- 14 (b) Employees of the Hawaii health systems corporation  
15 eligible for inclusion in bargaining units (1) and (10) shall  
16 not be included in bargaining unit (14).

17 ~~[-b-]~~ (c) Because of the nature of the work involved and  
18 the essentiality of certain occupations that require specialized  
19 training, supervisory employees who are eligible for inclusion  
20 in bargaining units (9) through (13) shall be included in  
21 bargaining units (9) through (13), respectively, instead of  
22 bargaining unit (2) or (4).



1        [~~(e)~~] (d) The classification systems of each jurisdiction  
2 shall be the bases for differentiating blue collar from white  
3 collar employees, professional from institutional, health and  
4 correctional workers, supervisory from nonsupervisory employees,  
5 teachers from educational officers, and faculty from nonfaculty.  
6 In differentiating supervisory from nonsupervisory employees,  
7 class titles alone shall not be the basis for determination.  
8 The nature of the work, including whether a major portion of the  
9 working time of a supervisory employee is spent as part of a  
10 crew or team with nonsupervisory employees, shall be considered  
11 also.

12        [~~(d)~~] (e) For the purpose of negotiating a collective  
13 bargaining agreement, the public employer of an appropriate  
14 bargaining unit shall mean the governor together with the  
15 following employers:

16        (1) For bargaining units (1), (2), (3), (4), (9), (10),  
17 and (13), the governor shall have six votes and the  
18 mayors~~[7]~~ and the chief justice~~[7, and the Hawaii~~  
19 ~~health systems corporation board]~~ shall each have one  
20 vote if they have employees in the particular  
21 bargaining unit;



1 (2) For bargaining units (11) and (12), the governor shall  
2 have four votes and the mayors shall each have one  
3 vote;

4 (3) For bargaining units (5) and (6), the governor shall  
5 have three votes, the board of education shall have  
6 two votes, and the superintendent of education shall  
7 have one vote;

8 (4) For bargaining units (7) and (8), the governor shall  
9 have three votes, the board of regents of the  
10 University of Hawaii shall have two votes, and the  
11 president of the University of Hawaii shall have one  
12 vote~~[-]~~; and

13 (5) For bargaining unit (14), the governor shall have one  
14 vote and the Hawaii health systems corporation shall  
15 have three votes.

16 Any decision to be reached by the applicable employer group  
17 shall be on the basis of simple majority, except when a  
18 bargaining unit includes county employees from more than one  
19 county. In ~~[such]~~ that case, the simple majority shall include  
20 at least one county.

21 ~~[-(e)]~~ (f) In addition to a collective bargaining agreement  
22 under subsection ~~[-(d)-]~~ (e) each employer may negotiate,



1 independently of one another, supplemental agreements that apply  
2 to their respective employees; provided that any supplemental  
3 agreement reached between the employer and the exclusive  
4 representative shall not extend beyond the term of the  
5 applicable collective bargaining agreement and shall not require  
6 ratification by employees in the bargaining unit.

7       ~~[(f)]~~ (g) For the purposes of negotiating contributions by  
8 the State and the counties to a voluntary employees' beneficiary  
9 association trust as part of a collective bargaining agreement,  
10 all prospective retirees who retire on or after July 1, 2005,  
11 shall be considered members of the bargaining unit to which they  
12 belonged immediately prior to their retirement from the State or  
13 the counties.

14       ~~[(g)]~~ (h) The following individuals shall not be included  
15 in any appropriate bargaining unit or be entitled to coverage  
16 under this chapter:

- 17       (1) Elected or appointed official;
- 18       (2) Member of any board or commission; provided that  
19             nothing in this paragraph shall prohibit a member of a  
20             collective bargaining unit from serving on a local  
21             school board of a charter school or the charter school  
22             review panel established under chapter 302B;



- 1 (3) Top-level managerial and administrative personnel,  
2 including the department head, deputy or assistant to  
3 a department head, administrative officer, director,  
4 or chief of a state or county agency or major  
5 division, and legal counsel;
- 6 (4) Secretary to top-level managerial and administrative  
7 personnel under paragraph (3);
- 8 (5) Individual concerned with confidential matters  
9 affecting employee-employer relations;
- 10 (6) Part-time employee working less than twenty hours per  
11 week, except part-time employees included in  
12 bargaining unit (5);
- 13 (7) Temporary employee of three months' duration or less;
- 14 (8) Employee of the executive office of the governor or a  
15 household employee at Washington Place;
- 16 (9) Employee of the executive office of the lieutenant  
17 governor;
- 18 (10) Employee of the executive office of the mayor;
- 19 (11) Staff of the legislative branch of the State;
- 20 (12) Staff of the legislative branches of the counties,  
21 except employees of the clerks' offices of the  
22 counties;



1 (13) Any commissioned and enlisted personnel of the Hawaii  
2 national guard;

3 (14) Inmate, kokua, patient, ward, or student of a state  
4 institution;

5 (15) Student help;

6 (16) Staff of the Hawaii labor relations board;

7 (17) Employee of the Hawaii national guard youth challenge  
8 academy; or

9 (18) Employee of the office of elections.

10 [~~h~~] (i) Where any controversy arises under this section,  
11 the board, pursuant to chapter 91, shall make an investigation  
12 and, after a hearing upon due notice, make a final determination  
13 on the applicability of this section to specific individuals,  
14 employees, or positions."

15 SECTION 3. Section 89-11, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17 "(d) If an impasse exists between a public employer and  
18 the exclusive bargaining representative of bargaining unit (1),  
19 nonsupervisory employees in blue collar positions; bargaining  
20 unit (5), teachers and other personnel of the department of  
21 education; [~~e~~] bargaining unit (7), faculty of the University  
22 of Hawaii and the community college system[~~r~~]; or bargaining



1 unit (14), employees of the Hawaii health systems corporation,  
2 the board shall assist in the resolution of the impasse as  
3 follows:

- 4 (1) Voluntary mediation. During the first twenty days of  
5 the date of impasse, either party may request the  
6 board to assist in a voluntary resolution of the  
7 impasse by appointing a mediator or mediators,  
8 representative of the public from a list of qualified  
9 persons maintained by the board;
- 10 (2) Mediation. If the impasse continues more than twenty  
11 days, the board shall appoint a mediator or mediators  
12 representative of the public from a list of qualified  
13 persons maintained by the board, to assist the parties  
14 in a voluntary resolution of the impasse. The board  
15 may compel the parties to attend mediation, reasonable  
16 in time and frequency, until the fiftieth day of  
17 impasse. Thereafter, mediation shall be elective with  
18 the parties, subject to the approval of the board;
- 19 (3) Report of the board. The board shall promptly report  
20 to the appropriate legislative body or bodies the  
21 following circumstances as each occurs:





- 1 (A) The date of a tentative agreement and whether the  
2 terms thereof are confidential between the  
3 parties;
- 4 (B) The ratification or failure of ratification of a  
5 tentative agreement;
- 6 (C) The signing of a tentative agreement;
- 7 (D) The terms of a tentative agreement; or
- 8 (E) On or about the fiftieth day of impasse, the  
9 failure of mediation.

10 The parties shall provide the board with the requisite  
11 information; and

- 12 (4) After the fiftieth day of impasse, the parties may  
13 resort to such other remedies that are not prohibited  
14 by any agreement pending between them, other  
15 provisions of this chapter, or any other law."

16 SECTION 4. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun, before its effective date.

19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 6. This Act shall take effect on July 1, 2009;  
22 provided that the amendments made to section 89-6, Hawaii



1 Revised Statutes, by section 2 of this Act shall not be repealed  
2 when section 89-6, Hawaii Revised Statutes, is repealed on July  
3 1, 2010, and reenacted pursuant to Act 245, Session Laws of  
4 Hawaii 2005, as amended by Act 294, Session Laws of Hawaii 2007,  
5 as amended by Act 5, Special Session Laws of Hawaii 2008.



**Report Title:**

Hawaii Health Systems Corporation; Collective Bargaining Unit

**Description:**

Creates a separate collective bargaining unit for certain employees of the Hawaii Health Systems Corporation. (HB696 HD1)

