

SB 410, SD1

RELATING TO COLLECTIVE
BARGAINING.

LAB, FIN

SB410 SD1



Submit Testimony

Measure Title: RELATING TO COLLECTIVE BARGAINING.
Report Title: Collective Bargaining; Negotiations
Description: Clarifies the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer. Takes effect 1/7/2059. (SD1)
Companion: [HB232](#)
Package: None
Current Referral: LAB, FIN
Introducer(s): KEITH-AGARAN

Sort by Date		Status Text
1/20/2017	S	Introduced.
1/23/2017	S	Passed First Reading.
1/23/2017	S	Referred to JDL, WAM.
2/3/2017	S	The committee(s) on JDL has scheduled a public hearing on 02-09-17 9:05AM in conference room 016.
2/9/2017	S	The committee(s) on JDL recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDL were as follows: 5 Aye(s): Senator(s) Keith-Agaran, K. Rhoads, Gabbard, Kim, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/15/2017	S	Reported from JDL (Stand. Com. Rep. No. 250) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/15/2017	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/27/2017	S	The committee(s) on WAM will hold a public decision making on 03-01-17 9:45AM in conference room 211.

3/1/2017	S	The committee(s) on WAM recommend(s) that the measure be PASSED, UNAMENDED. The votes in WAM were as follows: 11 Aye(s): Senator(s) Tokuda, Dela Cruz, English, Galuteria, Harimoto, Inouye, K. Kahele, Riviere, Shimabukuro, Taniguchi, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
3/3/2017	S	Reported from WAM (Stand. Com. Rep. No. 874) with recommendation of passage on Third Reading.
3/3/2017	S	One Day Notice 03-07-17.
3/7/2017	S	Report adopted; Passed Third Reading. Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/7/2017	H	Received from Senate (Sen. Com. No. 155) in amended form (SD 1).
3/9/2017	H	Pass First Reading
3/9/2017	H	Referred to LAB, FIN, referral sheet 27
3/13/2017	H	Bill scheduled to be heard by LAB on Thursday, 03-16-17 9:00AM in House conference room 309.

A BILL FOR AN ACT

RELATING TO COLLECTIVE BARGAINING.

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

1 SECTION 1. Section 89-9, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Excluded from the subjects of negotiations are
4 matters of classification, reclassification, benefits of but not
5 contributions to the Hawaii employer-union health benefits trust
6 fund, recruitment, examination, initial pricing, and retirement
7 benefits except as provided in section 88-8(h). The employer
8 and the exclusive representative shall not agree to any proposal
9 which would be inconsistent with the merit principle or the
10 principle of equal pay for equal work pursuant to section 76-1
11 or which would interfere with the rights and obligations of a
12 public employer to:

- 13 (1) Direct employees;
- 14 (2) Determine qualifications, standards for work, and the
15 nature and contents of examinations;
- 16 (3) Hire, promote, transfer, assign, and retain employees
17 in positions;



- 1 (4) Suspend, demote, discharge, or take other disciplinary
- 2 action against employees for proper cause;
- 3 (5) Relieve an employee from duties because of lack of
- 4 work or other legitimate reason;
- 5 (6) Maintain efficiency and productivity, including
- 6 maximizing the use of advanced technology, in
- 7 government operations;
- 8 (7) Determine methods, means, and personnel by which the
- 9 employer's operations are to be conducted; and
- 10 (8) Take such actions as may be necessary to carry out the
- 11 missions of the employer in cases of emergencies.

12 This subsection shall not be used to invalidate provisions
13 of collective bargaining agreements in effect on and after
14 June 30, 2007, and shall not preclude negotiations over either
15 the procedures and criteria on promotions, transfers,
16 assignments, demotions, layoffs, suspensions, terminations,
17 discharges, or other disciplinary actions [~~as a permissive~~
18 ~~subject of bargaining]~~ or the implementation by the employer of
19 paragraphs (1) through (8), if it affects terms and conditions
20 of employment, during collective bargaining negotiations or



1 negotiations over a memorandum of agreement, memorandum of
2 understanding, or other supplemental agreement.

3 Violations of the procedures [~~and~~], criteria, and
4 implementation so negotiated may be subject to the grievance
5 procedure in the collective bargaining agreement."

6 SECTION 2. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on January 7, 2059.

12



Report Title:

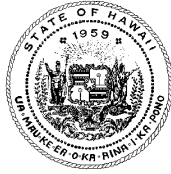
Collective Bargaining; Negotiations

Description:

Clarifies the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer. Takes effect 1/7/2059. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





**STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR**
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

March 14, 2017

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Thursday, March 16, 2017
9:00 a.m., Conference Room 309

By

JAMES K. NISHIMOTO
CHIEF NEGOTIATOR, OFFICE OF COLLECTIVE BARGAINING

**Senate Bill No. 410, S.D. 1
Relating to Collective Bargaining**

CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT:

S.B. No. 410, S.D. 1, clarifies the allowable scope of collective bargaining
negotiations regarding the rights and obligations of a public employer.

The Office of Collective Bargaining **opposes** this measure and provides the
following comments for consideration:

- The removal as proposed of the provision “.... as a permissive subject of bargaining” implies by inference that the “permissive subject” would become “mandatory subjects of bargaining”.
- The current language balances promotion of joint decision making between the employers and exclusive representative while ensuring balance between the role of the Employer to manage and direct operations and the exclusive representative to advocate and negotiate for its members as it relates to wages, hours and working conditions.

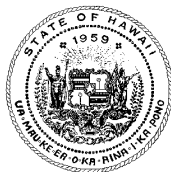
- The addition of language “.... or the implementation by the employer of paragraphs (1) through (8), if it affects terms and conditions of employment,” appears to conflict with existing language in Section 89-9(d) which forbids the parties to agree to any proposal that interferes with management rights listed in paragraphs (1) through (8).
- The proposed insertion of the language to require incorporation of language relating to subparagraphs 1 through 8 could be interpreted as requiring that practically everything management implemented would affect terms and conditions of employment and therefore subject to mutual agreement.
- The proposed amended language goes beyond clarification and appears to be contrary to the original intent of Section 89-9(d), which states, “The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with the merit principle or the principle of equal pay for equal work pursuant to section 76-1 or which would interfere with the rights and obligations of a public employer.” The removal of the clarifying language “as a permissive subject of bargaining” from the existing statute has the potential of curtailing management rights expressly protected by the Hawai‘i Supreme Court in United Public Workers v. Hannemann, 106 Hawai‘i 359, 365, 105 P. 3d 236, 242 (2005) in particular with respect to paragraphs (3) through (5) of 89-9(d) relating to the rights and obligations of a public employer to (3) hire, promote, transfer, assign and retain employees in positions; (4) suspend, demote, discharge, or take other disciplinary action against employees for proper cause; and (5) relieve an employee from duties due to the lack of work or other legitimate reasons.
- Further, the potential impact of the proposed revision would essentially strip management of its current rights by requiring mutual agreement regarding the conduct of business and such actions that may be initiated such as:

- Management's authority to direct its workforce to perform work that they were hired e.g., the amendatory language might be interpreted by employees as empowering them to refuse to perform assigned duties and responsibilities unless such duties have been mutually agreed to as a term and condition of employment;
- Management's authority to determine minimum qualifications, standards for work and nature and contents of examinations (interview questions, panel members selected, scoring method, etc.) unless such have been mutually agreed to between the employer and exclusive representatives;
- Management's ability and authority to take appropriate action when its employees fail to perform satisfactorily or for disciplinary action in the event of employee's misconduct;
- Management's ability to initiate reduction in force or layoffs of employees due to lack of work or other legitimate reasons and otherwise take action necessary to carry out the missions of the employer in cases of emergencies.

Based upon the above, the Office of Collective Bargaining respectfully recommends that further considerations of the above concerns be given before moving this measure forward.

Thank you for the opportunity to testify on this important measure.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RYKER WADA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 14, 2017

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
For Hearing on Thursday, March 16, 2017
9:00 a.m., Conference Room 309

By

JAMES K. NISHIMOTO
DIRECTOR, DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Senate Bill No. 410, S.D. 1
Relating to Collective Bargaining

CHAIRPERSON JOHANSON, VICE CHAIR HOLT AND MEMBERS OF THE HOUSE
COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT:

S.B. No. 410, S.D. 1, clarifies the allowable scope of collective bargaining
negotiations regarding the rights and obligations of a public employer.

The Department of Human Resources Development **opposes** this measure as it
would interfere with the rights and obligations of a public employer by allowing
negotiations on rights reserved to management. This is contrary to Section 89-9(d),
which states, "The employer and the exclusive representative shall not agree to any
proposal which would be inconsistent with the merit principle or the principle of equal
pay for equal work pursuant to section 76-1 or which would interfere with the rights and
obligations of a public employer."

Based upon the above, the Department of Human Resources Development
respectfully requests that this measure **be held**.

Thank you for the opportunity to testify on this important measure.

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN COMMENTS
TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
SENATE BILL NO. 410, S.D. 1

March 16, 2017
9:00 a.m.
Room 309

RELATING TO COLLECTIVE BARGAINING

Senate Bill No. 410, S.D. 1, clarifies the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer and it clarifies prohibited practices for parties to a public employment collective bargaining agreement.

The Department of Budget and Finance (B&F) opposes this measure based on numerous problems outlined by the Office of Collective Bargaining. Particular concerns for B&F are as follows:

- Reductions in the State's right to manage and direct the workforce may make operations less efficient and thus more expensive.
- In particular, management's inability to initiate reductions in force or layoffs could negatively impact the State's ability to respond to fiscal emergencies.
- Bond rating agencies may respond negatively to reductions in management's diminished ability to respond to fiscal emergencies.

Thank you for your consideration of our comments.

Written Only

DAVID Y. IGE
GOVERNOR



KATHRYN S. MATAYOSHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/16/2017

Time: 09:00 AM

Location: 309

Committee: House Labor & Public
Employment

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 0410, SD1 RELATING TO COLLECTIVE BARGAINING.

Purpose of Bill: Clarifies the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer. Takes effect 1/7/2059. (SD1)

Department's Position:

The Department of Education (Department) respectfully opposes SB 410, S.D. 1.

The proposed deletion of "permissive subject of bargaining" and requiring bargaining over "implementation" interferes with the rights of the employer by compelling negotiations over permissive subjects. Not only would this bill require the employer to bargain "permissive" subjects, it adds "implementation" as another topic beyond procedures and criteria.

The supposed intent of SB 410, S.D. 1 to clarify the scope of collective bargaining negotiations in actuality, causes more confusion.

Therefore, the Department respectfully opposes SB 410, S.D. 1 and requests the measure be held.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Labor and Public Employment
March 16, 2017 at 9:00 a.m.

By
Richard H. Thomason
Director of Collective Bargaining and Labor Relations
University of Hawai'i

SB 410 SD1 – RELATING TO COLLECTIVE BARGAINING

Chair Johanson, Vice Chair Holt, and members of the Committee:

The University of Hawai'i opposes Senate Bill 410 SD1 Relating to Collective Bargaining. This measure seeks to clarify the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer.

Rather than creating clarity, this measure proposes to amend HRS, Section 89-9(d) by directly impinging upon fundamental management rights recognized and protected by the Hawai'i Supreme Court in United Public Workers v. Hanneman, 106 Hawai'i 359, 365, 105 P. 3d 236, 242 (2005). As a representative employer group, the University opposes any degradation of employer rights and obligations to ensure optimal and efficient working conditions.

In sum, this bill does not “*clarify the allowable scope of collective bargaining*,” on the contrary; it seeks to dismantle management rights presently protected by HRS, §89-9(d), and it seeks to expand mandatory bargaining obligations beyond the four corners of public sector collective bargaining agreements.

Thank you for the opportunity to provide testimony on this measure and respectfully requests this measure be held.

holt1 - Joyleanne

From: Cody Hensarling on behalf of Rep. Aaron Ling Johanson
Sent: Wednesday, March 15, 2017 9:48 AM
To: holt1 - Joyleanne
Subject: FW: testimony on SB 410

From: Levin, Andrew [mailto:Andrew.Levin@hawaiicounty.gov]
Sent: Wednesday, March 15, 2017 9:10 AM
To: Rep. Aaron Ling Johanson
Subject: testimony on SB 410

Dear Chair Johanson and members:

Thank you for this opportunity to comment on SB 410, SD1.

SB 410, SD1 says its purpose is to "clarify" the allowable scope of collective bargaining negotiations regarding the rights and obligations of a public employer, and also "clarify" prohibited practices for parties to a public employment collective bargaining agreement. However, as we read the bill, its provisions would take away rights of the employer, and that is not acceptable.

We appreciate that this draft, and the latest draft of the House companion (HB232) have removed some wording that was contained in the original. However, collective bargaining language can be extremely technical, and every change can have unforeseen consequences.

As we read SB 410, SD1 it still would provide a union another subject area to grieve, by alleging that an action by the employer to implement affects the terms and conditions of employment. So, the amendment does not clarify, it muddies the current bright line of understanding between employer rights and employee rights.

It would remove from HRS 89- 9 "permissive subjects of bargaining" which currently (1) are not mandatory, (2) are permissive and (3) are limited to 'procedures and criteria.' HRS 89-9 properly recognizes "permissive subjects of bargaining"; there is no duty to bargain, and a party cannot be compelled to bargain on permissive subjects.

Therefore, the County of Hawaii must oppose passage of SB 410, SD1. It goes beyond mere clarification, and gets into substantive changes in the rights of the parties.

Respectfully submitted,

Wil Okabe
Managing Director
County of Hawaii



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association

March 16, 2017

S.B. 410, S.D. 1 – RELATING TO COLLECTIVE BARGAINING

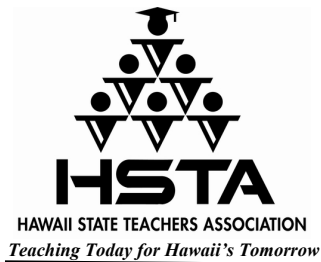
The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of S.B. 410, S.D. 1 which clarifies the allowable scope of collective bargaining negotiations and prohibited practices for parties to a collective bargaining agreement.

This important measure makes necessary amendments to Ch. 89-9, Hawaii Revised Statutes, to clarify and delineate the scope of bargaining between the public sector employers and the exclusive representatives. The amendments to Ch. 89-9, HRS contained in S.B. 410, S.D. 1 are necessary to ensure fairness in the process of negotiations. We respectfully request the Committee to support this measure.

Thank you for the opportunity to testify in strong support of the passage of S.B. 410, S.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President
Justin Hughey
Vice President
Amy Perruso
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR

RE: SB 410, SD 1 - RELATING TO COLLECTIVE BARGAINING.

THURSDAY, MARCH 16, 2017

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Johanson and Members of the Committee:

The Hawaii State Teachers Association **strongly supports SB 410, SD 1**, relating to collective bargaining.

This proposal clarifies the obligation of the state to engage in negotiations in a fair and respectable manner. While HSTA recognizes the right of the state to manage employee work, we strongly affirm the importance of protecting employees' right to negotiate those subjects outlined in HRS 89-9.

Collective bargaining is especially important to public school teachers. It is in the best interest of both the employer and the union to ensure that bargaining occurs in a way that supports an employee's ability to enhance their professionalism, leads to a workplace free from health and safety risks, and is conducted in a fair and equitable manner.

To protect collective bargaining, the Hawaii State Teachers Association asks your committee to **support** this bill.



The House Committee on Labor & Public Employment
Thursday, March 16, 2017
9:00 am, Room 309

RE: SB 410, SD1, RELATING TO COLLECTIVE BARGAINING

Attention: Chair Aaron Ling Johanson, Vice Chair Daniel Holt and
Members of the Committee

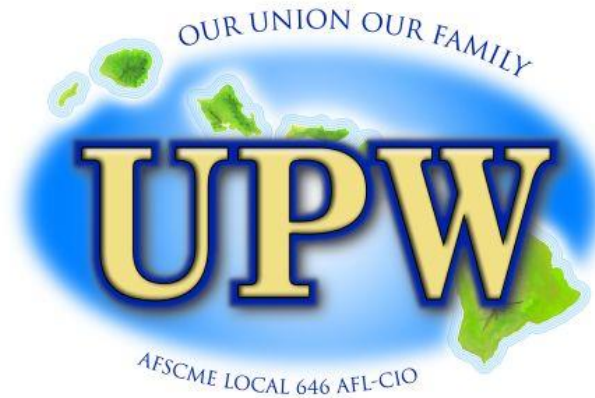
The University of Hawaii Professional Assembly (UHPA) urges the committee to **support SB 410, SD1** which encourages the parties to a collective bargaining agreement to negotiate in a manner that effectuates the purpose of Chapter 89. Such purpose includes recognizing that public employees have a voice in determining their working conditions. This proposed measure advances the cooperative relations between employers and employees that establishes a healthy collective bargaining environment.

UHPA encourages the Committee to **support SB 410, SD1**.

Respectfully Submitted,

Kristeen Hanselman
Executive Director

University of Hawaii
Professional Assembly



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

The Hon, Chair
The Honorable Senator Karl Rhoads, Vice Chair

DATE OF HEARING: Thursday, March 16, 2017
TIME OF HEARING: 9:00 a.m.
PLACE OF HEARING: State Capitol, Rm. 309
415 South Beretania Street

**TESTIMONY ON SENATE BILL 410 SD1 RELATING TO COLLECTIVE
BARGAINING**

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

Collective bargaining in public employment has had a rich history for several decades in Hawaii. The collective negotiations between the public employers and the exclusive representatives has brought relative labor peace which is vital for the reliable provision of core services like public safety, health, environmental protection, infrastructure and

education to our communities throughout the state. This is the basic reason HRS 89-1 expressed the Legislature's intent and wise policy in the joint-decision making process for administering government.

SB410 SD1 amends the collective bargaining law HRS 89-9, to put emphasis on the importance of the joint-decision process to wit,"...and shall not preclude negotiations over either the procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions [as a permissive subject of bargaining] or the implementation by the employer of paragraph (1) through (8), if it affects terms and conditions of employment,..."

The term "permissive" is proposed to be deleted in the amendment. This should help to level the playing field and support the Legislative policy of joint-decision making. According to Matt Austin Labor Law, there are basically three types of bargaining; Illegal subjects of bargaining, Permissive subjects of bargaining, and Mandatory subjects of bargaining. Illegal subjects of bargaining are obvious i.e., they are unenforceable subjects that violate state or federal law.

Mandatory subjects of bargaining are subjects related to the terms and conditions of employment and include wages, grievances, arbitration procedures, contract length, union security clauses, and other terms and conditions of employment. Neither the employer nor the union can refuse to bargain over mandatory subjects of bargaining. Permissive subjects of bargaining are those that either party can propose to discuss and the other side may voluntarily bargain on those subjects. Neither side may insist on bargaining that subject to the point of impasse. Once bargaining begins on a permissive subject, either side can end the bargaining on that subject without penalty.

A word about Impact and Implementation bargaining. In general terms, when an employer wants to exercise its "management rights" the union may not be able to bargain over the substance of an issue. But the union may be able to bargain over how the issue would "impact" employees or be "implemented." The union could propose solutions to improve the implementation and thereby lessen the negative impact of the change on affected employees.

The bill does not preclude negotiations over the implementation by the employer of paragraphs (1) through (8) HRS 89-9 (d) if it affects the terms and conditions of employment. The bill also provides a grievance process in case of any violations of the procedures, criteria, and implementation so negotiated. SB410 SD1 increases the opportunity for improved communications and understanding between the employer and exclusive representative and that government will continue to provide reliable public services. This is a goal of HRS 89-1.

The UPW supports this measure and requests the indulgence of the committee to pass it out.

Thank you for the opportunity to submit this testimony.

SB 410, SD1
Late Testimony



HAWAII FIRE FIGHTERS ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 1463, AFL-CIO
1018 PALM DRIVE, HONOLULU, HAWAII 96814-1929
TELEPHONE (808) 949-1566 FAX: (808) 952-6003
WEBSITE: www.hawaiifirefighters.org

LATE

THE HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017
March 16, 2017

LATE

Committee on Labor and Public Employment

Testimony by
Hawaii Fire Fighters Association

LATE

S.B. No. 410, S.D. 1 RELATING TO COLLECTIVE BARGAINING

The Hawaii Fire Fighters Association (HFFA), Local 1463, IAFF, AFL-CIO, represents more than 1,900 professional active-duty and 800 retired fire fighters throughout the State. The HFFA, on behalf of our members, **strongly supports S.B. No. 410, S.D. 1** clarifying the allowable scope of collective bargaining negotiations.

The proposed amendment in S.B. No. 410, S.D. 1, clarifies that the subjects of bargaining between the employers and the exclusive representatives are negotiable when the implementation of HRS Section 89-9, paragraphs (1) through (8), *affects the terms and conditions of employment.*” (Emphasis added.) The employers are not prohibited from establishing new policies under this proposed amendment. However, this proposed legislation requires that the *impact of those policies* on public employment are subject to bargaining.

Specifically excluded topics, such as all aspects of the Hawaii Retirement System and the health insurance coverages of the Employer Union Trust Fund, remain outside of the collective bargaining process.

On September 23, 2016, the “Employer Group” filed a Petition for Declaratory Ruling questioning the meaning of the word “permissive” with the Hawaii Labor Relations Board, but subsequently withdrew the petition. The Petitioners questioned whether a number of HFFA’s Final Positions that were submitted for Interest Arbitration were prohibited since the State and Counties were asserting that the proposals were permissible subject to the criteria articulated in Section 89-9(d), H.R.S. While HFFA contended the proposals identified by the petitioners have gone through a number of revisions throughout previous negotiations and interest arbitration without any question but as if it was an epiphany, the Petitioners, State and Counties, decided that the sections were questionable as to whether they were permissible subjects of bargaining and subject to arbitration. The petition implied that “permissive” gave the employer the

unilateral right to decide not to include in collective bargaining agreements topics that had been **part of public sector contracts for over forty years**, since the original passage of the Chapter 89. This legislative proposal places the responsibility of good faith bargaining on both parties and effectively addresses the rights and benefits for public employees under the collective bargaining law.

HFFA appreciates your Committee's favorable consideration of this measure and thank you for the opportunity to testify.

LATE



LATE

LATE

The House Committee on Labor & Public Employment
Thursday, March 16, 2017
9:00 am, Room 309

RE: SB 410, SD1, RELATING TO COLLECTIVE BARGAINING

Attention: Chair Aaron Ling Johanson, Vice Chair Daniel Holt and
Members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support SB 410, SD1** which encourages the parties to a collective bargaining agreement to negotiate in a manner that effectuates the purpose of Chapter 89. Such purpose includes recognizing that public employees have a voice in determining their working conditions. This proposed measure advances the cooperative relations between employers and employees that establishes a healthy collective bargaining environment.

UHPA encourages the Committee to **support SB 410, SD1**.

Respectfully Submitted,

Kristeen Hanselman
Executive Director

University of Hawaii
Professional Assembly