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## HOUSE RESOLUTION

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URGING THE HAWAII LABOR RELATIONS BOARD, AND OTHER CONCERNED AGENCIES OR JUDICIAL BODIES, TO TAKE NOTICE OF THE LEGISLATURE'S INTENT TO ENABLE EXCLUSIVE REPRESENTATIVES TO MAINTAIN FINANCIAL VIABILITY AND ORGANIZATIONAL CAPACITY AND EFFECTIVELY REPRESENT PUBLIC EMPLOYEES, AND TO REMOVE OR REDUCE FINANCIAL INCENTIVES FOR EMPLOYEES TO "FREE RIDE".

1 WHEREAS, Hawaii's collective bargaining in public  
2 employment law, chapter 89, Hawaii Revised Statutes, was enacted  
3 to promote labor-management harmony in the public sector by:

4  
5 (1) Establishing guidelines for employment relations  
6 relating to wages, hours, and working conditions;

7  
8 (2) Providing a method for dealing with disputes and work  
9 stoppages; and

10  
11 (3) Maintaining a favorable political and social  
12 environment; and  
13

14 WHEREAS, the policy to promote harmonious and cooperative  
15 relations between government and its employees rests on the  
16 right of public employees to organize for the purpose of  
17 collective bargaining in accordance with article XIII, section  
18 2, of the Hawaii State Constitution; and  
19

20 WHEREAS, in the interest of labor peace and viability of  
21 the collective bargaining enterprise, the Legislature has  
22 consistently required all public employees in bargaining units  
23 to bear the pro rata costs of their duly-elected exclusive  
24 representatives' collective bargaining function, in accord with  
25 *Aboud v. Detroit Bd. of Educ.*, 431 U.S. 209, 97 S. Ct. 1782, 52  
26 L.Ed.2d 261 (1977) (allowing public sector agency fees) (*Aboud*);  
27 and  
28

29 WHEREAS, in *Janus v. American Fed'n of State, County, and*  
30 *Mun. Employees, Council 31*, 851 F.3d 746 (7th Cir. 2017), cert.  
31 granted, 138 S.Ct. (Mem), 198 L.Ed. 2d 780 (2017), (*Janus*) the



1 petitioner is asking the United States Supreme Court to overrule  
2 *Abood*, and the Court has accepted the case, arguments have been  
3 submitted and presented, and a decision is expected by the end  
4 of June, 2018; and

5  
6 WHEREAS, most commentators expect that *Abood* will be  
7 overruled and traditional agency fees will be banned; and

8  
9 WHEREAS, should the United States Supreme Court strike down  
10 laws requiring the payment of agency fees by public sector  
11 employees, such a ruling would fundamentally undermine the  
12 Legislature's consistent efforts to bar "free riders", and  
13 ensure labor management peace; undercut the collective  
14 bargaining representative's ability to collect resources from  
15 its bargaining unit; and greatly diminish public employees'  
16 ability to negotiate with management thus causing the government  
17 to lose the advantages envisioned under the collective  
18 bargaining in public employment law; and

19  
20 WHEREAS, the intent of the Legislature is to ensure that  
21 public employees are able to effectively bargain collectively  
22 with their public employers by establishing a mechanism,  
23 consistent with the United States Constitution, that provides  
24 exclusive bargaining representatives with the resources  
25 necessary to adequately represent public employees, and removes  
26 economic incentives to "free ride" so that Hawaii law will not  
27 be biased for or against employee membership in the bargaining  
28 unit; and

29  
30 WHEREAS, the United States Supreme Court may issue a ruling  
31 in *Janus* after the Legislature has adjourned, leaving public  
32 sector employees and the State and counties of Hawaii uncertain  
33 of their rights without immediate legislative recourse; and

34  
35 WHEREAS, under such circumstances the Hawaii Labor  
36 Relations Board, or other agencies or judicial bodies, may be  
37 called upon to interpret, adapt, or conform chapter 89, Hawaii  
38 Revised Statutes, to the result in *Janus*, through rules or  
39 decisions, perhaps pending later legislative action; now,  
40 therefore,



1 BE IT RESOLVED by the House of Representatives of the  
2 Twenty-ninth Legislature of the State of Hawaii, Regular Session  
3 of 2018, that the Hawaii Labor Relations Board, and other  
4 concerned agencies or judicial bodies, are urged to take notice  
5 of this body's intent to enable exclusive representatives to  
6 maintain financial viability and organizational capacity and  
7 effectively represent public employees, and to remove or reduce  
8 financial incentives for employees to "free ride"; and  
9

10 BE IT FURTHER RESOLVED that the Hawaii Labor Relations  
11 Board is requested to submit a report of its findings and  
12 recommendations on the status and consequences of *Janus*,  
13 including any proposed legislation, to this body no later than  
14 twenty days prior to the convening of the Regular Session of  
15 2019; and  
16

17 BE IT FURTHER RESOLVED that certified copies of this  
18 Resolution be transmitted to the Governor, Chairperson of the  
19 Hawaii Labor Relations Board, and Chief Justice of the Supreme  
20 Court of Hawaii.  
21  
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23

OFFERED BY:



MAR 09 2018

