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# 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 as follows:

3           1. By amending subsection (a) to read:

4           "(a) The employer and the exclusive representative shall  
5 meet at reasonable times, including meetings sufficiently in  
6 advance of the February 1 impasse date under section 89-11, and  
7 shall negotiate in good faith with respect to wages, hours, the  
8 benefits and amounts of contributions by the State and  
9 respective counties to the Hawaii employer-union health benefits  
10 trust fund to the extent allowed in subsection (e), and other  
11 terms and conditions of employment which are subject to  
12 collective bargaining and which are to be embodied in a written  
13 agreement as specified in section 89-10, but [~~such~~] this  
14 obligation does not compel either party to agree to a proposal  
15 or make a concession."

16           2. By amending subsection (d) to read:



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

- 11           (1) Direct employees;
- 12           (2) Determine qualifications, standards for work, and the  
13           nature and contents of examinations;
- 14           (3) Hire, promote, transfer, assign, and retain employees  
15           in positions;
- 16           (4) Suspend, demote, discharge, or take other disciplinary  
17           action against employees for proper cause;
- 18           (5) Relieve an employee from duties because of lack of  
19           work or other legitimate reason;



1 (6) Maintain efficiency and productivity, including  
2 maximizing the use of advanced technology, in  
3 government operations;

4 (7) Determine methods, means, and personnel by which the  
5 employer's operations are to be conducted; and

6 (8) Take actions as may be necessary to carry out the  
7 missions of the employer in cases of emergencies.

8 This subsection shall not be used to invalidate provisions  
9 of collective bargaining agreements in effect on and after  
10 June 30, 2007, and except as otherwise provided in this chapter,  
11 shall not preclude negotiations over the implementation of  
12 management decisions that affect terms and conditions of  
13 employment that are subject to collective bargaining. Further,  
14 this subsection shall not preclude negotiations over the  
15 procedures and criteria on promotions, transfers, assignments,  
16 demotions, layoffs, suspensions, terminations, discharges, or  
17 other disciplinary actions as subjects of bargaining during  
18 collective bargaining negotiations or negotiations over a  
19 memorandum of agreement, memorandum of understanding, or other  
20 supplemental agreement; provided that [~~such~~] this obligation



1 shall not compel either party to agree to a proposal or make a  
2 concession.

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

6       3. By amending subsection (e) to read:

7       "(e) Negotiations relating to the benefits of and  
8 contributions to the Hawaii employer-union health benefits trust  
9 fund shall be for the purpose of agreeing upon the benefits  
10 under the health benefits plan and amounts which the State and  
11 counties shall contribute under section 87A-32[7] through  
12 87A-37, toward the payment of the costs for a health benefits  
13 plan, as defined in section 87A-1, and group life insurance  
14 benefits, and the parties shall not be bound by the benefits and  
15 amounts contributed under prior agreements; provided that  
16 section 89-11 for the resolution of disputes [~~by way of~~  
17 ~~arbitration shall not be available to resolve impasses or~~  
18 ~~disputes relating to the amounts the State and counties shall~~  
19 ~~contribute to the Hawaii employer-union health benefits trust~~  
20 ~~fund.] shall apply."~~



1 SECTION 2. Section 89-11, Hawaii Revised Statutes, is  
2 amended by amending subsection (g) to read as follows:

3 "(g) The decision of the arbitration panel shall be final  
4 and binding upon the parties on all provisions submitted to the  
5 arbitration panel. ~~[If the parties have reached agreement with  
6 respect to the amounts of contributions by the State and  
7 counties to the Hawaii employer-union health benefits trust fund  
8 by the tenth working day after the arbitration panel issues its  
9 decision, the final and binding agreement of the parties on all  
10 provisions shall consist of the panel's decision and the amounts  
11 of contributions agreed to by the parties. If the parties have  
12 not reached agreement with respect to the amounts of  
13 contributions by the State and counties to the Hawaii employer-  
14 union health benefits trust fund by the close of business on the  
15 tenth working day after the arbitration panel issues its  
16 decision, the parties shall have five days to submit their  
17 respective recommendations for such contributions to the  
18 legislature, if it is in session, and if the legislature is not  
19 in session, the parties shall submit their respective  
20 recommendations for such contributions to the legislature during  
21 the next session of the legislature. In such event, the final~~



1 ~~and binding agreement of the parties on all provisions shall~~  
2 ~~consist of the panel's decision and the amounts of contributions~~  
3 ~~established by the legislature by enactment, after the~~  
4 ~~legislature has considered the recommendations for such~~  
5 ~~contributions by the parties. It is strictly understood that no~~  
6 ~~member of a bargaining unit subject to this subsection shall be~~  
7 ~~allowed to participate in a strike on the issue of the amounts~~  
8 ~~of contributions by the State and counties to the Hawaii~~  
9 ~~employer-union health benefits trust fund.]~~ The parties shall  
10 take whatever action is necessary to carry out and effectuate  
11 the final and binding agreement. The parties may, at any time  
12 and by mutual agreement, amend or modify the panel's decision.

13       Agreements reached pursuant to the decision of an  
14 arbitration panel and the amounts of contributions by the State  
15 and counties to the Hawaii employer-union health benefits trust  
16 fund, as provided herein, shall not be subject to ratification  
17 by the employees concerned. All items requiring any moneys for  
18 implementation shall be subject to appropriations by the  
19 appropriate legislative bodies and the employer shall submit all  
20 [~~such~~] items subject to appropriation within ten days after the



1 date on which the agreement is entered into as provided herein,  
2 to the appropriate legislative bodies."

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

5 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Collective Bargaining; Public Employers, Scope of Negotiations;  
Hawaii Employer-Union Health Trust Fund; Benefits; Resolution of  
Disputes; Impasses

**Description:**

Allows the public employer and exclusive representative to negotiate benefits of the Hawaii Employer-Union Health Benefits Trust Fund. Allows the exclusive representative to fully utilize dispute resolution and impasse provisions under state law when negotiating the benefits and contributions to the Hawaii Employer-Union Health Trust Fund. Takes effect 7/1/2050. (SD1)

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