

JAN 22 2026

A BILL FOR AN ACT

RELATING TO PRIVATE SECTOR COLLECTIVE BARGAINING RIGHTS.

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

1 SECTION 1. The legislature finds that collective
2 bargaining rights for private sector workers are an essential
3 part of the structure of the American workplace. The federal
4 agency designated to guarantee and monitor workers' rights is
5 the National Labor Relations Board. However, due to the
6 political initiative "Project 2025" and efforts of the federal
7 government, the National Labor Relations Board has been
8 dismantled and rendered ineffective for lengthy periods of time.
9 After the president removed a sitting member of the National
10 Labor Relations Board in January 2025, the National Labor
11 Relations Board did not have a quorum for more than ten months.
12 For three of those months, the five-member board was reduced to
13 just one member. During the ten-month period when the National
14 Labor Relations Board lacked a quorum, it was powerless to
15 fulfill key labor law responsibilities, including deciding
16 appeals in unfair labor practice cases, resolving issues that



1 were disputed in representation case proceedings, and finalizing
2 proposed regulations.

3 The legislature further finds that, although federal law
4 regarding private sector collective bargaining rights generally
5 preempts state law, state law can supersede federal law in
6 certain situations if it provides higher or better protections.
7 Two states have already enacted collective bargaining laws to
8 fill gaps left by the federal government's actions in 2025.

9 The legislature maintains that the State directly benefits
10 from unionization. In 2023, the United States Bureau of Labor
11 Statistics reported that 24.1 per cent of Hawaii's wage and
12 salary workers were union members, the highest union membership
13 rate in the United States. Unionization directly contributes to
14 the State's gross domestic product by creating higher wages and
15 increasing consumer spending. In addition to economic benefits
16 for the State, unionization makes work environments safer,
17 improves health and retirement benefits, and reduces income
18 inequality. The legislature finds that it is therefore
19 incumbent upon the State to protect the rights of private sector
20 workers and the principles of unionization in the event of



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1 future failures by the United States government to maintain a
2 quorum at the National Labor Relations Board.

3 Accordingly, the purpose of this Act is to ensure that the
4 labor rights of covered private sector workers in the State are
5 protected by the Hawaii Employment Relations Act during periods
6 of thirty days or more when the National Labor Relations Board
7 lacks a quorum and has not already successfully exercised
8 jurisdiction over the workers. Due to the intermittent nature
9 of this Act, any budgetary requirements to implement it can be
10 addressed in subsequent legislation.

11 SECTION 2. Section 377-1, Hawaii Revised Statutes, is
12 amended by amending the definition of "employee" to read as
13 follows:

14 "'Employee" includes any person, other than an independent
15 contractor, working for another for hire in the State, and shall
16 not be limited to the employees of a particular employer unless
17 the context clearly indicates otherwise. "Employee" includes
18 any individual whose work has ceased solely as a consequence of
19 or in connection with any current labor dispute or because of
20 any unfair labor practice on the part of an employer and who has
21 not:



(1) Refused or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or the employee's representative;

(2) Been found to be committing or a party to any unfair labor practice hereunder;

(3) Obtained regular and substantially equivalent employment elsewhere; or

(4) Been absent from the individual's employment for a substantial period of time during which reasonable expectancy of settlement has ceased (except by an employer's unlawful refusal to bargain) and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout.

["Employee"] Except as provided in this definition, "employee"
does not include any individual employed in the domestic service of a family or person at the family's or person's home or any



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1 individual employed by the individual's parent or spouse~~[or]~~;
2 any person employed in an executive or supervisory capacity~~[or]~~;
3 ~~or]~~; any individual employed by any employer employing less than
4 two individuals~~[or]~~; any individual subject to the
5 jurisdiction of the federal Railway Labor Act ~~[or]~~ of 1926, as
6 amended from time to time; or any individual subject to the
7 jurisdiction of the National Labor Relations Act~~[or]~~ of 1935, as
8 amended from time to time. "Employee" includes any individual
9 subject to the jurisdiction of the National Labor Relations
10 Act~~[or]~~ of 1935, as amended from time to time, [but over whom the
11 National Labor Relations Board has declined to exercise
12 jurisdiction or has indicated by its decisions and policies that
13 it will not assume jurisdiction.] during a period when the
14 National Labor Relations Board does not have a quorum for thirty
15 or more days and has not successfully exercised jurisdiction
16 over the individual pursuant to an order by a federal district
17 court."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



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

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Karl Rhoads



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Report Title:

DLIR; HLRB; Hawaii Employment Relations Act; Collective Bargaining; Private Sector Workers' Rights; Labor; Unionization; Protections

Description:

Expands under certain circumstances the types of employees protected by the Hawaii Employment Relations Act to include independent contractors and all individuals subject to the jurisdiction of the National Labor Relations Act of 1935.

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

