

## ACT 191

H.B. NO. 817

A Bill for an Act Relating to Collective Bargaining in the Public Sector and Amending Chapter 89, Hawaii Revised Statutes.

SECTION 1. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 89-6 Appropriate bargaining units.** (a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same salary schedule;
- (6) Educational officers and other personnel of the department of education under the same salary schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Nonprofessional hospital and institutional workers;
- (11) Firefighters;
- (12) Police officers; and
- (13) Professional and scientific employees, other than registered professional nurses.

Because of the nature of work involved and the essentiality of certain occupations which require specialized training, units (9) through (13) are designated as optional appropriate bargaining units. Employees in any of these optional units may either vote for separate units or for inclusion in their respective units (1) through (4). If a majority of the employees in any optional unit desire to constitute a separate appropriate bargaining unit, supervisory employees may be included in the unit by mutual agreement among supervisory and nonsupervisory employees within the unit; if supervisory employees are excluded, the appropriate bargaining unit for such supervisory employees shall be (2) or (4), as the case may be.

The compensation plans for blue collar positions pursuant to section 77-5 and for white collar positions pursuant to section 77-13, the salary schedules for teachers pursuant to section 297-33 and for educational officers pursuant to section 297-33.1, and the appointment and classification of faculty pursuant to sections 304-11 and 304-13, existing on July 1, 1970, shall be the bases for differentiating blue collar from white collar employees, professional from non-professional employees, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty. In differentiating supervisory from nonsupervisory employees, class titles alone shall not be the

basis for determination, but, in addition, the nature of the work, including whether or not a major portion of the working time of a supervisory employee is spent as part of a crew or team with nonsupervisory employees, shall also be considered."

SECTION 2. The Hawaii Revised Statutes, as amended, are further amended by amending the words "Fireman and Policeman" to read "Firefighters and Police Officers" wherever the same appear therein.

SECTION 3. Section 89-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 89-8 Recognition and representation; employee participation. (a)** The employee organization which has been certified by the board as representing the majority of employees in an appropriate bargaining unit shall be the exclusive representative of all employees in the unit. As exclusive representative, it shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership. Any other provision herein to the contrary notwithstanding, whenever two or more employee organizations which have been duly certified by the board as the exclusive representatives of employees in bargaining units merge, combine, or amalgamate or enter into an agreement for common administration or operation of their affairs, all rights and duties of such employee organizations as exclusive representatives of employees in such units shall inure to and shall be discharged by the organization resulting from such merger, combination, amalgamation, or agreement, either alone or with such employee organizations. Election by the employees in the unit involved, and certification by the board of such resulting employee organization shall not be required.

(b) An individual employee may present a grievance at any time to his employer and have the grievance heard without intervention of an employee organization; provided that the exclusive representative is afforded the opportunity to be present at such conferences and that any adjustment made shall not be inconsistent with the terms of an agreement then in effect between the employer and the exclusive representative.

(c) Employee participation in the collective bargaining process conducted by the exclusive representative of the appropriate bargaining unit shall be permitted during regular working hours without loss of regular salary or wages. The number of participants from each bargaining unit with over 2,500 members shall be limited to one member for each five hundred members of the bargaining unit. For bargaining units with less than 2,500 members, there shall be at least five participants, one of whom shall reside in each county; provided that there need not be a participant residing in each county for the bargaining unit established by section 89-6(a)(8). The bargaining unit shall select the participants from representative departments, divisions or sections to minimize interference with the normal operations and service of the departments, divisions or sections."

SECTION 4. Section 89A-1, Hawaii Revised Statutes, is amended to read:

**“Sec. 89A-1 Office of collective bargaining in the state government established.** There shall be established an office of collective bargaining in the office of the governor to assist the governor in negotiating with and entering into written agreements between the public employers and the exclusive representatives on matters of wages, hours and other negotiable terms and conditions of employment.

The position of chief negotiator for the State is hereby established to head the office. The chief negotiator shall be experienced in labor relations. The governor shall appoint and remove the chief negotiator, deputy negotiators, and researcher, who shall not be subject to chapters 76 and 77. The salary of the chief negotiator shall be set by the governor and shall not exceed the salaries of department heads as prescribed in section 26-52(2). The chief negotiator, deputy negotiators, and researcher shall be included in any benefit program generally applicable to the officers and employees of the State. All other employees shall be appointed in accordance with chapters 76 and 77. The chief negotiator shall serve as one of the governor’s designated representatives as set forth in section 89-6(b).”

SECTION 5. Employees of the office of collective bargaining, other than the chief negotiator, deputy negotiators and researcher appointed pursuant to section 89A-1 up to the effective date of this Act, shall become civil service employees without loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges and without the necessity of examination upon the effective date of this Act.

SECTION 6. SEVERABILITY. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and each and every other provision thereof shall not be affected thereby.

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

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\*Edited accordingly.