

ACT 189

H.B. NO. 1843

A Bill for an Act Relating to Collective Bargaining in Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) If an impasse exists between a public employer and the exclusive bargaining representative of bargaining unit (1), nonsupervisory employees in blue collar positions; bargaining unit (2), supervisory employees in blue collar positions; bargaining unit (3), nonsupervisory employees in white collar positions; bargaining unit (4), supervisory employees in white collar positions; bargaining unit (5), teachers and other personnel of the department of education; bargaining unit (6), educational officers and other personnel of the department of education under the same salary schedule; bargaining unit (7), faculty of the University of Hawaii and the community college system; bargaining unit (8), personnel of the University of Hawaii and the community college system, other than faculty; [~~bargaining unit (9), registered professional nurses;~~] or bargaining unit (13), professional and scientific employees, the board shall assist in the resolution of the impasse as follows:

- (1) Voluntary mediation. During the first twenty days of the date of impasse, either party may request the board to assist in a voluntary resolution of the impasse by appointing a mediator or mediators, representative of the public from a list of qualified persons maintained by the board.

- (2) **Fact-finding.** If the impasse continues twenty days after the date of impasse, the board shall immediately appoint a fact-finding panel of not more than three members, representative of the public from a list of qualified persons maintained by the board. The fact-finding panel shall, in addition to powers delegated to it by the board, make recommendations for the resolution of the impasse pursuant to subsection (f). The fact-finding panel, acting by a majority of its members, shall transmit a report on its findings of fact and recommendations for the resolution of the impasse to both parties within sixty days after its appointment and notify the board of the date when it transmitted the fact-finding report.
- (3) **Mediation.** If the impasse continues ten days after the transmittal of the fact-finding report, the board shall appoint a mediator or mediators representative of the public from a list of qualified persons maintained by the board, to assist the parties in a voluntary resolution of the impasse. The parties shall make the fact-finding report available to the mediator or mediators.
- (4) **Fact-finding report made public.** If the impasse continues sixty days after the transmittal of the fact-finding report, the parties shall make available to the board the fact-finding report which shall be released by the board for public information.
- (5) **Submission of fact-finding report and response of the parties.** If the impasse continues and the parties have not mutually agreed to submit the dispute to arbitration for a decision by January 31 of an odd-numbered year, the employers shall submit on February 1 to the appropriate legislative bodies the employers' recommendations for the settlement of the impasse on all cost items together with the fact-finding report. The exclusive representative may submit to the appropriate legislative bodies its recommendations for the settlement of the cost items in impasse.

(e) If an impasse exists between a public employer and the exclusive representative of bargaining unit (9), registered professional nurses; bargaining unit (10), institutional, health, and correctional workers; bargaining unit (11), firefighters; or bargaining unit (12), police officers, the board shall assist in the resolution of the impasse as follows:

- (1) **Mediation.** During the first twenty days after the date of impasse, the board shall immediately appoint a mediator, representative of the public from a list of qualified persons maintained by the board, to assist the parties in a voluntary resolution of the impasse.
- (2) **Arbitration.** If the impasse continues twenty days after the date of impasse, the board shall immediately notify the employer and the exclusive representative that the impasse shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.
  - (A) **Arbitration panel.** Two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the arbitration panel, shall be selected by mutual agreement of the parties. In the event that the parties fail to select the neutral third member of the arbitration panel within thirty days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the neutral arbitrator shall be selected. Within five days after receipt of such list, the parties

shall alternately strike names from the list until a single name is left, who shall be immediately appointed by the board as the neutral arbitrator and chairperson of the arbitration panel.

- (B) Final positions. Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a final position which shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions which each party is proposing for inclusion in the final agreement.
- (C) Arbitration hearing. Within one hundred twenty days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final positions. The arbitrator, or the chairperson of the arbitration panel together with the other two members, are encouraged to assist the parties in a voluntary resolution of the impasse through mediation, to the extent practicable throughout the entire arbitration period until the date the panel is required to issue its arbitration decision.
- (D) Arbitration decision. Within thirty days after the conclusion of the hearing, a majority of the arbitration panel shall reach a decision pursuant to subsection (f) on all provisions that each party proposed in its respective final position for inclusion in the final agreement and transmit a preliminary draft of its decision to the parties. The parties shall review the preliminary draft for completeness, technical correctness, and clarity and may mutually submit to the panel any desired changes or adjustments that shall be incorporated in the final draft of its decision. Within fifteen days after the transmittal of the preliminary draft, a majority of the arbitration panel shall issue the arbitration decision.”

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

SECTION 3. This Act shall take effect on July 1, 2002.

(Approved June 25, 2002.)