

## ACT 6

H.B. NO. 952

A Bill for an Act Relating to Labor.

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

SECTION 1. Chapter 377, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§377- Streamlining union certification.** (a) When an employee, group of employees, or any individual or labor organization acting on their behalf, files a petition alleging that a majority of employees in a unit appropriate for the purposes of collective bargaining wish to be represented by an individual or labor organization for those purposes, the board shall investigate the petition. If the board finds that a majority of the employees in a unit appropriate for bargaining have signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative, and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board shall certify the individual or labor organization as the representative without directing an election similar to that under section 377-1(11).

(b) The board shall adopt rules governing the certification of an exclusive representative under this section and shall have the final determination on any controversy concerning the eligibility of an employee to sign an authorization card and the validity of an employee's signature on an authorization card.

(c) For the purposes of this section, the term “employee” means an employee as defined in section 377-1; provided that the employee is employed by an employer with an annual gross revenue of more than \$5,000,000.

**§377- Facilitating initial collective bargaining agreements.** (a) No later than ten days after receiving a written request for collective bargaining from an individual or labor organization that has been newly organized or certified as a representative, the parties shall meet and commence to bargain collectively and shall make every reasonable effort to conclude and sign a collective bargaining agreement.

(b) If, after the expiration of the ninety-day period beginning on the date on which bargaining commenced, or such additional period as the parties may agree upon, the parties have failed to reach an agreement, either party may notify the board of the existence of a dispute and request conciliation under section 377-3.

(c) If, after the expiration of the twenty-day period beginning on the date on which the request for conciliation is made under subsection (b), or such additional period as the parties may agree upon, the conciliator is not able to bring the parties to agreement by conciliation, the board shall refer the dispute to an arbitration panel established in accordance with section 89-11(e)(2)(A) and rules as may be prescribed by the board. The arbitration panel shall render a decision settling the dispute, and the decision shall be binding upon the parties for a period of two years, unless amended during that period by written consent of the parties.”

SECTION 2. Section 377-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) After the final hearing, the board shall promptly make and file an order or decision, incorporating findings of fact upon all the issues involved in

the controversy and the determination of the rights of the parties. Pending the final determination of the controversy the board may, after hearing, make interlocutory orders which may be enforced in the same manner as final orders. Final orders may dismiss the complaint or require the person complained of to cease and desist from the unfair labor practices found to have been committed, suspend the person's rights, immunities, privileges, or remedies granted or afforded by this chapter for not more than one year, and require the person to take ~~[such] affirmative action, including reinstatement of employees [with or without pay, as the board may deem proper.]~~ and make orders in favor of employees making them whole, including back pay with interest, costs, and attorneys' fees. Any order may further require the person to make reports from time to time showing the extent to which the person has complied with the order. Furthermore, an employer or employee who wilfully or repeatedly commits unfair or prohibited practices that interfere with the statutory rights of an employer or employees or discriminates against an employer or employees for the exercise of protected conduct shall be subject to a civil penalty not to exceed \$10,000 for each violation. In determining the amount of any penalty under this section, the board shall consider the gravity of the unfair or prohibited practice and the impact of the practice on the charging party, on other persons seeking to exercise rights guaranteed by this section, or on public interest."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2009.  
 (Vetoed by Governor and veto overridden by Legislature on July 15, 2009.)

**Note**

1. Edited pursuant to HRS §23G-16.5.