

**ACT 137**

S.B. NO. 883

A Bill for an Act Relating to Collective Bargaining.

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

SECTION 1. The purpose of this Act is to establish a new collective bargaining unit to represent state law enforcement officers and state and county ocean safety and water safety officers.

SECTION 2. Section 89-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(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 pay schedule, including part-time employees working less than twenty hours a week who are equal to one-half of a full-time equivalent;
- (6) Educational officers and other personnel of the department of education under the same pay 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) Institutional, health, and correctional workers;
- (11) Firefighters;
- (12) Police officers; ~~and~~
- (13) Professional and scientific employees, who cannot be included in any of the other bargaining units~~[-]; and~~
- (14) State law enforcement officers and state and county ocean safety and water safety officers.

(b) Because of the nature of work involved and the essentiality of certain occupations that require specialized training, supervisory employees who are eligible for inclusion in units (9) through ~~[(13)]~~ (14) shall be included in units (9) through ~~[(13);]~~ (14), respectively, instead of unit (2) or (4).”

2. By amending subsection (d) to read:

“(d) For the purpose of negotiating a collective bargaining agreement, the public employer of an appropriate bargaining unit shall mean the governor together with the following employers:

- (1) For bargaining units (1), (2), (3), (4), (9), (10), ~~and~~ (13), and (14), the governor shall have six votes and the mayors, the chief justice, and the Hawaii health systems corporation board shall each have one vote if they have employees in the particular bargaining unit;
- (2) For bargaining units (11) and (12), the governor shall have four votes and the mayors shall each have one vote;
- (3) For bargaining units (5) and (6), the governor shall have three votes, the board of education shall have two votes, and the superintendent of education shall have one vote; and
- (4) For bargaining units (7) and (8), the governor shall have three votes, the board of regents of the University of Hawaii shall have two votes, and the president of the University of Hawaii shall have one vote.

Any decision to be reached by the applicable employer group shall be on the basis of simple majority, except when a bargaining unit includes county employees from more than one county. In ~~[such]~~ that case, the simple majority shall include at least one county.”

SECTION 3. Section 89-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No election shall be directed by the board in any appropriate bargaining unit within which:

- (1) [a] A valid election has been held in the preceding twelve months;  
[or]
- (2) [a] A valid collective bargaining agreement is in force and effect[-];  
or
- (3) Any new bargaining unit is created when the created unit is composed of employees currently covered by a valid collective bargaining agreement and represented by the same exclusive representative."

SECTION 4. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) If an impasse exists between a public employer and the exclusive representative of 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 (6), educational officers and other personnel of the department of education under the same salary schedule; bargaining unit (8), personnel of the University of Hawaii and the community college system, other than faculty; bargaining unit (9), registered professional nurses; bargaining unit (10), institutional, health, and correctional workers; bargaining unit (11), firefighters; bargaining unit (12), police officers; [or] bargaining unit (13), professional and scientific employees[-]; or bargaining unit (14), state law enforcement officers and state and county ocean safety and water safety 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] the 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 5. The rights, benefits, and privileges currently enjoyed by state law enforcement officers and state and county ocean safety and water safety officers, including those rights, benefits, and privileges under chapters 76, 78, 87A, and 88, Hawaii Revised Statutes, shall not be impaired or diminished as a result of these employees being transitioned to the newly created bargaining unit (14). The transition to the new bargaining unit (14) shall not result in any break in service for the affected employees. The rights, benefits, and privileges currently enjoyed by state law enforcement officers and state and county ocean safety and water safety officers shall be maintained under their existing collective bargaining agreement and any successor agreement until a collective bargaining agreement is negotiated for the new bargaining unit (14).

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)