



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

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SB 1374 RELATING TO COLLECTIVE BARGAINING

Chair Hee and Vice Chair Shimabukuro and Members of Senate Committee on Judiciary and Labor, I am submitting written testimony on behalf of the University of Hawai'i regarding Senate Bill 1374 – Relating to Collective Bargaining which proposes to amend HRS, Chapter 89, §89-4, to allow an employer to remit the amount of an employee's union dues to a personal representative selected by the employee in the event the employee's union decides not to represent the employee's position in a grievance.

The University of Hawai'i has reservations regarding the impact, intended or otherwise, of the proposed legislation if enacted.

The University of Hawai'i has covered employees in Units 1, 2, 3, 4, 7, 8, 9 and 10. Unit 7 and 8 consists of employees who only work for the University of Hawai'i system, and thus, we are considered their only employer.

As an Employer we have considerable administrative and logistical concerns over the process of allowing an employee to direct union dues to a personal representative. First, the State's payroll system will need to establish another agent code for the personal representative in order for the State to remit payment in a form of a check to the personal representative. Second, the affected union will need to be informed that a covered employee has selected another personal representative to receive the employee's union dues. Third, the UH payroll office will need to be informed of the exact dollar amount of the union dues payment to the personal representative and will need to input this amount manually each pay period. Fourth, the UH Office of Human Resources (OHR) and Informational Technology Services (ITS) will need to create an entry on the electronic payroll change schedule (ePCS) in order for the UH Payroll Office to place the dollar amount of the deduction for union dues. Finally, the UH departments will need to be aware of this deduction and to coordinate with UH Payroll Office and OHR that these deductions are being followed per the employee's request.

In addition, we have concerns related to who will be responsible for notifying and authorizing the UH Payroll Office when the remittance to a personal representative rather than the union will start and when it will end. All of the union contracts for covered employees in Units 1, 2, 3, 4, 7, 8, 9 and 10 have contractual language governing the methodology and processing for union dues deduction. Without consent from the union, the UH could be faced with challenges such as grievances, arbitrations, and Hawai'i Labor Relations Board (HLRB) prohibited practice complaints over this matter.

These matters of concerns mentioned above must be addressed statutorily in order to protect us as the employer in attempting to enforce and comply with this proposed legislation.

Bargaining unit employees already have the statutory right to pursue grievances on their own without the use or intervention of the union. HRS, Chapter 89, §89-8 Recognition and representation; employee participation, (b), states: *“An individual employee may present a grievance at any time to the employee's 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.”* Under this section, an employee would not only be able to pursue a grievance without the use of the union but also to use a personal representative in lieu of a union representative. The only difference here is the remittance of union dues to the personal representative.

If an employee believes that the union's conduct was arbitrary, discriminatory or in bad faith as the reason why the union decided not to represent the employee's position in a grievance, the employee is entitled to pursue a duty of fair representation (DFR) claim against the union through the HLRB under §89-13(b)(4). If the HLRB finds that the union did not comply with its duty of fair representation, sanctions and possibly monetary remedies could be awarded to the employee as part of its decision or settlement in turn could be used to compensate an employee's personal representative.

The UH believes that there is enough statutory provisions covered under Chapter 89, HRS, to afford all bargaining unit employees with the ability to pursue actions and grievances against not only the employer but the unions as well.

Thank you for the opportunity to testify on this bill.