



The House Committee on Labor & Public Employment
February 12, 2019
9:20 am, Conference Room 309

RE: **HB 862 RELATING TO COLLECTIVE BARGAINING**

Attention: Chair Aaron Johanson, Vice Chair Stacelynn Eli and members of the Committee

The University of Hawaii Professional Assembly (UHPA) **strongly supports the passage of HB 862.**

This amendment to HRS Chapter 89-8 recognizes that the impact of US Supreme Court case in *Janus v American Federation of State, County, and Municipal Employees Council 31, ET AL.* may lead to instability in maintaining the financial integrity of any given public sector bargaining unit. Since bargaining unit members may opt-out of paying any fees that support the exclusive bargaining representative this places at risk the ability of UHPA to provide appropriate representation on contractual matters to UHPA members.

HB 862 specifies that the exclusive representatives of public employees are not required to provide grievance representation to collective bargaining unit members who neither pay dues nor dues equivalents and who decline to pay reasonable costs of the representation. This amendment is optional within the collective bargaining law and no other public sector bargaining unit is compelled to adopt this approach.

UHPA has the most diverse bargaining unit in the state, not only in type of work performed, but the terms and conditions of employment including compensation. The proposed legislation is simply a tool for meeting the unique demands of a bargaining unit that historically has a significant percentage of non-members. With *Janus* those faculty members that were agency fee are now non-fee payors.

Hawai'i has a mature, unique and distinct collective bargaining law that governs collective bargaining for public sector employees. UHPA is seeking clarity in the law that recognizes changed circumstances. This measure seeks to provide the flexibility necessary for an alternative approach with a modification of the duty of fair representation. UHPA has vetted this approach with representatives of the Attorney General's Office. They have found no legal impediments to the changes proposed in this bill.

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There is nothing in the *Janus* decision that states that individuals get something for nothing. In fact, there is a basis for this approach that is found in the *Janus* decision under footnote 6. This measure does not mandate the exclusive representatives take any action. It simply provides an option for the exclusive representatives to consider as a solution for long term viability.

Thank you for the opportunity to provide testimony in **strong support of HB 862.**

Respectfully submitted,

A handwritten signature in black ink that reads "Kristeen Hanselman".

Kristeen Hanselman
Executive Director

The Thirtieth Legislature
Regular Session of 2019

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HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Aaron Ling Johanson, Chair
Rep. Stacelynn K.M. Eli Vice Chair
State Capitol, Conference Room 309
Tuesday, February 12, 2019; 9:20 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 862
RELATING TO COLLECTIVE BARGAINING**

The ILWU Local 142 supports H.B. 862, which specifies that exclusive representatives of public employees are not required to provide grievance representation to collective bargaining unit members who neither pay dues nor dues equivalents and who decline to pay reasonable costs of the representation.

Chapter 89-8 currently requires exclusive representatives to provide grievance representation to everyone in the bargaining unit, regardless of their membership status. With the recent Janus court case, members of public sector unions have the option to opt-out and pay no dues to their exclusive representative, resulting in financial complications and likely administrative difficulties for the exclusive representative(s). Employees who choose to opt-out are often referred to as “free riders” who receive the benefits of unionization without paying membership dues or fees. H.B. 862 simply helps correct a wrong by modifying Chapter 89-8 by not requiring grievance representation which can be costly and time consuming for non-paying members.

For the reasons listed above, the ILWU recommends passage of H.B. 862. Thank you for the opportunity to share our views on this matter.