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# A BILL FOR AN ACT

RELATING TO LABOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 377, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:  
4           "§377- Streamlining union certification. (a) When an  
5 employee, group of employees, or any individual or labor  
6 organization acting on their behalf, files a petition alleging  
7 that a majority of employees in a unit appropriate for the  
8 purposes of collective bargaining wish to be represented by an  
9 individual or labor organization for those purposes, the board  
10 shall investigate the petition. If the board finds that a  
11 majority of the employees in a unit appropriate for bargaining  
12 have signed valid authorizations designating the individual or  
13 labor organization specified in the petition as their bargaining  
14 representative and that no other individual or labor  
15 organization is currently certified or recognized as the  
16 exclusive representative of any of the employees in the unit,  
17 the board shall certify the individual or labor organization as

1 the representative without directing an election similar to that  
2 under section 377-1(11).

3 (b) The board shall develop guidelines and procedures for  
4 the designation by employees of a bargaining representative in  
5 the manner described in subsection (a). Such guidelines and  
6 procedures shall include:

7 (1) Model collective bargaining authorization language  
8 that may be used to make the designations described in  
9 subsection (a); and

10 (2) Procedures to be used by the board to establish the  
11 validity of signed authorizations designating  
12 bargaining representatives pursuant to subsection (a).

13 **§377- Facilitating initial collective bargaining**

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

20 (b) If, after the expiration of the ninety-day period  
21 beginning on the date on which bargaining commenced, or such  
22 additional period as the parties may agree upon, the parties

1 have failed to reach an agreement, either party may notify the  
2 board of the existence of a dispute and request conciliation  
3 under section 377-3.

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

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

17 "(d) After the final hearing, the board shall promptly  
18 make and file an order or decision, incorporating findings of  
19 fact upon all the issues involved in the controversy and the  
20 determination of the rights of the parties. Pending the final  
21 determination of the controversy the board may, after hearing,  
22 make interlocutory orders which may be enforced in the same

1 manner as final orders. Final orders may dismiss the complaint  
2 or require the person complained of to cease and desist from the  
3 unfair labor practices found to have been committed, suspend the  
4 person's rights, immunities, privileges, or remedies granted or  
5 afforded by this chapter for not more than one year, and require  
6 the person to take [~~such~~] affirmative action, including  
7 reinstatement of employees [~~with or without pay, as the board~~  
8 ~~may deem proper.~~] and make whole orders in favor of employees,  
9 including back pay with interest, costs, and attorneys' fees.  
10 Any order may further require the person to make reports from  
11 time to time showing the extent to which the person has complied  
12 with the order. Furthermore, an employer who wilfully or  
13 repeatedly commits unfair or prohibited practices that interfere  
14 with the statutory rights of employees or discriminate against  
15 employees for the exercise of protected conduct shall be subject  
16 to a civil penalty not to exceed \$20,000 for each violation. In  
17 determining the amount of any penalty under this section, the  
18 board shall consider the gravity of the unfair or prohibited  
19 practice and the impact of the practice on the charging party,  
20 on other persons seeking to exercise rights guaranteed by this  
21 section, or on public interest."

**1** SECTION 3. Statutory material to be repealed is bracketed  
**2** and stricken. New statutory material is underscored.

**3** SECTION 4. This Act shall take effect upon its approval.

**Report Title:**

Labor Unions; Private Sector

**Description:**

Certifies entities as exclusive representatives without an election where no other representatives are certified as the exclusive bargaining representatives. Requires immediate collective bargaining between parties once entities are certified as exclusive representatives. Makes it a violation for an employer to commit unfair or prohibited practices interfering with an employee's statutory rights or discriminating against an employee for exercising protected conduct, subject to a civil penalty of up to \$20,000 per violation. Effective on approval. (SD2)