A BILL FOR AN ACT

RELATING TO THE OFFICE OF COLLECTIVE BARGAINING AND MANAGED COMPETITION.

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

SECTION 1. The chief negotiator in the office of collective bargaining and managed competition serves a vital role as the key representative of the governor during collective bargaining negotiations. This position also advises the governor on labor relations policy. While it is necessary for the chief negotiator position to remain a direct appointment by the governor, the office of collective bargaining as a functional unit should be transferred to the department of human resources development to maintain institutional knowledge and support across executive administrations. Further, in light of the fact that part II (privatization) of Act 90, Session Laws of Hawaii 2001, sunsets in 2007, managed competition pursuant to chapter 89A, Hawaii Revised Statutes, is arguably not viable absent an analog to part II being enacted.

The purposes of this Act are to transfer the position of chief negotiator and related organizational functions and funding from the office of the governor to the department of
human resources development to maintain such institutional
knowledge and support and to eliminate references to managed
competition.

SECTION 2. Section 89A-1, Hawaii Revised Statutes, is
amended to read as follows:

"§89A-1 Office of collective bargaining [and managed
competition]. (a) There shall be established an office of
collective bargaining [and managed competition] in the [office
of the governor] department of human resources development to
assist the governor in [implementation and review of the managed
process of public-private competition for particular government
services through the managed competition process and]}
negotiations between the State and the exclusive representatives
on matters of wages, hours, and other negotiable terms and
conditions of employment.

(b) The position of chief negotiator for the State is
hereby established in the department of human resources
development to head the office. The chief negotiator shall be
experienced in labor relations. The governor shall appoint the
chief negotiator [and may also appoint deputy negotiators to
assist the chief negotiator.], without regard to chapter
76. The appointment of the chief negotiator shall not be
subject to senate confirmation. The governor, at pleasure, may
remove the chief negotiator (and any deputy negotiator). All other employees shall be appointed by the chief negotiator. All employees in the office of collective bargaining and managed competition. The chief negotiator shall be included in any benefit programs generally applicable to employees of the State.

(c) Subject to the approval of the governor, the office of collective bargaining [and managed competition] shall:

(1) assist the governor in formulating the State's philosophy for public collective bargaining [and the managed process for public-private competition for government services, including which particular service can be provided more efficiently, effectively, and economically considering all relevant costs], and

(2) coordinate and negotiate the managed competition process on behalf of the State with exclusive representatives of affected public employees and private contractors.

[(d) No employee of the office of collective bargaining and managed competition] shall be included in the civil service, any civil service classification system, or any appropriate bargaining unit, provided that any civil service position in
existence on July 1, 2002, shall not be exempted from civil
service until the incumbent in that position on July 1, 2002,
vacates that position.

(e) If the State executes a contract with a private
contractor pursuant to the managed competition process
authorized under this section, the State may use the layoff
provisions of the civil service laws and the respective
collective bargaining contracts to release employees displaced
from their positions by the managed competition process. Prior
to implementing any layoff provision of the civil service laws
or a collective bargaining contract, the State shall use its
resources for placing, retraining, and providing voluntary
severance incentives for displaced employees. Methods that may
be used to minimize or avoid the adverse effects of an agency's
decision to secure needed services from contractors may include:

(1) Coordination with the private service provider awarded
the contract under this section to continue a
displaced employee's employment as an employee of the
contractor;

(2) Reassignment to another civil service position the
employee is qualified to fill;

(3) Retraining to qualify the employee for reassignment,
(4) Severance incentives.

(f) As used in this section, "managed competition" means the process established in this section by which the State and a private contractor compete to provide government services.]

SECTION 3. Section 89A-2, Hawaii Revised Statutes, is amended to read as follows:

"§89A-2 Functions of the office of collective bargaining

[and managed competition]. In addition to the powers and functions provided in other sections of this chapter, and subject to the approval of the governor, the office of collective bargaining [and managed competition] shall:

(1) Assist the governor in formulating plans, including objectives, criteria to measure management's accomplishment of objectives, and programs through which the objectives are to be attained;

(2) Assist the governor in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;

(3) Conduct negotiations with the exclusive representatives of each employee organization and designate employer spokespersons for each negotiation;
(4) Coordinate the State's resources in all mediation, fact-finding and interest arbitration cases as well as in all labor disputes;

(5) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;

(6) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;

(7) Coordinate the establishment of cost data negotiated with each exclusive representative and assist the governor in making recommendations with respect thereto to the legislative bodies;

(8) Prepare and submit an annual report and such other reports as may be requested to the governor and to the legislature on the implementation of the collective bargaining act."

SECTION 4. All rights, powers, functions, and duties of the office of collective bargaining and managed competition are transferred from the office of the governor and placed in the department of human resources development for administrative purposes and the office shall be renamed as the office of collective bargaining.

SECTION 5. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents,
maps, and other personal property heretofore made, used, acquired, or held by the office of the governor relating to the functions transferred to the department of human resources development shall be transferred with the functions to which they relate.

SECTION 6. The Hawaii Revised Statutes is amended by replacing all reference to "office of collective bargaining and managed competition" or like references with "office of collective bargaining" or like references, as the context requires.

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

SECTION 8. This Act, upon its approval, shall take effect on July 1, 2019.

INTRODUCED BY: ____________________________

BY REQUEST JAN 22 2019
Report Title:
Office of Collective Bargaining and Managed Competition

Description:
Transfers the office of collective bargaining, including the position of chief negotiator, to the department of human resources development.
DEPARTMENT:  HUMAN RESOURCES DEVELOPMENT

TITLE:  A BILL FOR AN ACT RELATING TO THE OFFICE OF COLLECTIVE BARGAINING AND MANAGED COMPETITION.

PURPOSE:  To transfer the Office of Collective Bargaining from the Office of the Governor to the Department of Human Resources Development and to eliminate references to managed competition.

MEANS:  Amend sections 89A-1 and 89A-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION:  In addition to the duties as Director of the Department of Human Resources Development (DHRD), the DHRD Director currently serves a dual-role as Chief Negotiator in the Office of Collective Bargaining (OCB). The OCB has no appropriated staff to support it. However, when acting as Chief Negotiator, the Director of DHRD is naturally supported by staff in DHRD's Labor Relations Division, who are experienced and knowledgeable with respect to the collective bargaining agreements and negotiations. This bill seeks to transfer the OCB, including the position of Chief Negotiator and related organizational functions and funding, from the Office of the Governor to DHRD. This transfer will serve to preserve the institutional knowledge of the OCB with the staff that currently supports the Chief Negotiator (DHRD's Labor Relations Division) and, in turn, will provide for the perpetuation of this institutional knowledge and support for the benefit of future executive administrations. Further, in light of the fact that part II (privatization) of Act 90, Session Laws of Hawaii 2001, sunsetted in 2007, managed competition pursuant to chapter 89A, Hawaii...
Revised Statutes, is arguably not viable absent an analog to part II being enacted.

Impact on the public: None expected.

Impact on the department and other agencies: DHRD will be tasked with administrative oversight of an additional office.

GENERAL FUND: DHRD has a separate biennium budget request to add a Chief Negotiator position and general funds for the OCB.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Office of the Governor.

EFFECTIVE DATE: July 1, 2019.