

● HAWAII EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: Haw. Rev. Stat. §§ 377-1 – 377-18

GENERAL SUMMARY: The Hawaii Employment Relations Act (1) affirms the right of most employees in the state to self-organization and collective bargaining, (2) establishes a state-administered process for determining bargaining units and conducting union representation elections (3) defines unfair labor practices by employers and employees, (4) imposes certain recordkeeping responsibilities on labor organizations, and (5) outlines other rights, restrictions and procedures applicable to workers, employers and labor organizations. In general, the Act applies to individuals employed by any employer with 2 or more employees, including those performing agricultural labor or services.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Farmworkers and other covered employees in Hawaii have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. Such employees also have the right to refrain from any and all such activities, but employees may be required to join a union under an all-union agreement.

ELECTIONS — Whenever a question arises concerning representation of employees in a collective bargaining unit, the state agency administering the Act must arrange for and supervise a secret-ballot election and certify the results. The ballot must normally include the names of all potential representatives submitted by any employee or group of employees participating in the election, but the ballot must be prepared so as to permit any worker wishing to do so to vote against representation by any party named on the ballot.

REPRESENTATION — Representatives chosen for purposes of collective bargaining by a majority of the employees in a particular bargaining unit are the exclusive representatives of all the workers in the unit for bargaining purposes, but any worker or any minority group of workers in the unit has the right to present grievances to the employer in person or through representatives of their own choosing.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other acts, it is unlawful for any employer (1) to interfere with, restrain or coerce its employees in the exercise of the rights mentioned above, (2) to interfere with the administration of a labor organization, or contribute financial support to it, (3) to encourage or discourage union membership by discriminating in hiring, tenure or other terms or conditions of employment, (4) to refuse to bargain in good faith with the representative of a majority of its employees, and (5) to violate the terms of a collective bargaining agreement.

UNFAIR LABOR PRACTICES BY EMPLOYEES — Among other acts, it is unlawful for an employee or group of employees (1) to coerce or intimidate any other worker in the enjoyment of the worker's legal rights, (2) to violate the terms of a collective bargaining agreement, (3) to refuse to accept the final determination of the state administering agency with respect to any issue in controversy, and (4) to engage in an unauthorized strike or picketing.

STRIKE NOTICE — In any instance where a strike by employees of a producer, harvester or processor of any agricultural product produced in the state would tend to cause the destruction or serious deterioration of the product, the employees must give the state agency at least 10 days' notice of their intention to strike. The agency is required to advise the employer immediately of such notice.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Hawaii Labor Relations Board, Honolulu, Hawaii 96813 (808-586-8610)*. The Board has authority to hold hearings for the purpose of determining appropriate collective bargaining units and to order and supervise union representation elections. The Board is responsible for investigating unfair labor practice charges filed by any party in interest, for issuing orders or decisions in response to such charges, and for petitioning the state courts, when necessary, to enforce such orders or decisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.