CONCURRING OPINION BY NAKAYAMA, J.
IN WHICH MOON, C.J., AND LEVINSON, J., JOIN

I agree with Justice Ramil's conclusion that Section 2 of Act 100, 1999 Haw. Sess. L. (Section 2), violates article XIII, section 2 of the Hawai‘i Constitution, inasmuch as the legislature went beyond its constitutional authority in abrogating altogether the right of public employees to organize for the purpose of collective bargaining. I write separately to clarify the reason for this conclusion.

Article XIII, section 2 of the Hawai‘i Constitution provides that "[p]ersons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law." Haw. Const. art. XIII, § 2 (emphasis added). Pursuant to this provision, the legislature is given broad discretion in setting the parameters for collective bargaining. Indeed, the legislature has constitutionally exercised such discretion on previous occasions. See Hawai‘i Revised Statutes (HRS) § 89-6 (1993) (establishing bargaining units); HRS § 89-9(d) (1993) (specifying matters that are not subject to collective bargaining); HRS § 89-10(c) (1993) (determining the expiration date for collective bargaining agreements and proscribing the reopening of cost items during the term of the agreement).

While the legislature is given broad discretion pursuant to article XIII, section 2, the language "as provided by law" does not give the legislature unfettered discretion to infringe upon the core principles of collective bargaining.

> The fundamental principle in construing a constitutional provision is to give effect to the intention of the framers and the people adopting it. This intent is to be found in the instrument itself. When the text of a constitutional provision is not ambiguous, the court, in construing it, is

> not at liberty to search for its meaning beyond the instrument.

State v. Kahlbaun, 64 Haw. 197, 201, 638 P.2d 309, 314 (1981) (citations omitted). In this case, the intent is found in the instrument itself. The language "as provided by law" in article XIII, section 2 does not provide the legislature with unfettered discretion to enact laws that completely abrogate the right of public employees to organize for the purpose of collective bargaining pursuant to article XIII, section 2. Interpreting this language in such a manner would produce an absurd result inconsistent with the intent of the framers. See In re Application of Pioneer Mill Co., 53 Haw. 496, 500, 497 P.2d 549, 552 (1972) ("We are always reluctant to decide that the constitutional draftsmen intended to accomplish what appears to be an absurd result.").

Inasmuch as article XIII, section 2 does not grant the legislature unfettered discretion to infringe on the core principles of collective bargaining, the legislature went beyond its constitutional authority in enacting Section 2. Article XIII, section 2 expressly provides that "[p]ersons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law." Haw. Const. art. XIII, § 2 (emphasis added). "Collective bargaining" is defined as

> the performance of the mutual obligations of the public employer and an exclusive representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to wages, hours, amounts of contributions by the State and counties to the Hawaii public employees health fund, and other terms and conditions of employment, except that by any such obligation neither party shall be compelled to agree to a proposal, or be required to make a concession.

HRS § 89-2 (Supp. 2001). Section 2 amended HRS § 89-9(a) by adding the following underscored language, thus prohibiting altogether negotiation over "cost items" for two years:

> The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer's budget-making process, and shall negotiate in good faith with respect to wages, hours, the number of incremental and longevity steps and movement between steps within the salary range, the amounts of contributions by the State and respective counties to the Hawaii public employees health fund to the extent allowed in subsection (e), and other terms and conditions of employment which are subject to negotiations under this chapter and which are to be embodied in a written agreement, or any question arising thereunder, but such obligation does not compel either party to agree to a proposal or make a concession; provided that the parties may not negotiate with respect to cost items as defined by section 89-2 for the biennium 1999 to 2001, and the cost items of employees in bargaining units under section 89-6 in effect on June 30, 1999, shall remain in effect until July 1, 2001.

HRS § 89-9(a) (Supp. 2001) (emphasis added). "Cost items" are defined as "all items agreed to in the course of collective bargaining that an employer cannot absorb under its customary operating budgetary procedures and that require additional appropriations by its respective legislative body for implementation." HRS § 89-2. It is undisputed that wages and cost items are among the core subjects of collective bargaining. See HRS § 89-3 (Supp. 2001) ("Employees shall have the right of self-organization . . . for the purpose of collectively bargaining . . . on questions of wages, hours, and other terms and conditions of employment . . . ."); HRS § 89-9(a) (quoted supra); Ford Motor Co. v. NLRB, 441 U.S. 488, 490-91 n.2 (1979) ("As originally enacted, the Wagner Act [of 1935] did not define the subjects of [the] obligation to bargain [imposed by § 8(a)(5) of the National Labor Relations Act], although § 9(a), which was contained in the Wagner Act, made reference to 'rates of pay,

wages, hours of employment, or other conditions of employment.' Section 8(d) was added by the Taft-Hartley amendments to the Act in 1947, and expressly defined the scope of the duty to bargain as including 'wages, hours, and other terms and conditions of employment.'"). Thus, by enacting Section 2, which completely prohibited negotiation of "cost items," the legislature was in fact abrogating the right of public employees to "organize for the purpose of collective bargaining." The legislature did not have the constitutional authority to enact a law that in effect completely abrogated the right granted under article XIII, section 2 of the Hawai‘i Constitution. It is for the foregoing reasons that I concur with Justice Ramil's conclusion.