



GOV. MSG. NO. 837

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 15, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB183 HD1 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB183 HD1 SD2 CD1

A BILL FOR AN ACT
RELATING TO EDUCATION.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 15, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 183

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 183, entitled "A Bill for an Act Relating to Education."

The purpose of this bill is to expand the membership of the Hawaii Teacher Standards Board, allow the Hawaii Teacher Standards Board to employ an executive director approved by the Board of Education, and authorize the Hawaii Teacher Standards Board to grant additional licensing extensions.

This bill fails to address fundamental problems identified by the Legislative Auditor in the operations and authority of the Hawaii Teacher Standards Board. Specifically, the Auditor found this Board is "in a state of confusion, unable to develop, administer, and deliver an effective teacher licensing program." The Auditor pointed out that the Board's action jeopardized the Department of Education's ability to meet No Child Left Behind (NCLB). Most serious was the fact that the executive director of the Board approved approximately 3,800 teacher licenses since 2003 without the explicit authority to do so.

The Auditor found numerous other problems, including the expenditure of \$1 million on two sole source contracts that failed to complete the task of developing an on-line licensing program. The Auditor concluded that the laws governing the

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 183
Page 2

Hawaii Teacher Standards Board should be repealed and the responsibility for teacher licensing be transferred to the Board of Education.

This legislation does not correct the underlying problems with the operations of the Board.

The Legislature could have directly and accurately addressed the problems with the Hawaii Teacher Standards Board by following the Auditor's recommendations that the statutes governing the operations of the Board be repealed and the responsibility for teacher licensing be transferred to the Board of Education. I urge the Legislature to address this matter swiftly in the 2010 legislative session.

For the foregoing reasons, I am returning House Bill No. 183 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

PART I

SECTION 1. The legislature finds that the thirteen-member Hawaii teacher standards board is responsible for establishing standards for the issuance and renewal of licenses for teachers; serves as the adjudicator for appeals relating to licensing, including issuance or nonissuance of licenses, and the suspension, nonrenewal, and revocation of licenses; and approves teacher education programs and the professional development of teachers.

The purpose of this part is to make clarifying and other amendments to:

- (1) Increase the membership on the Hawaii teacher standards board from thirteen to fifteen with two public members representing the community;
- (2) Allow the board to employ an executive director for a term of up to four years, who shall be appointed by the board of education, and also allow the board to terminate the executive director's contract for cause;



- 1 (3) Require the board to submit its annual report to the
2 board of education;
- 3 (4) Authorize the board to determine the manner in which
4 licensing fees are collected;
- 5 (5) Authorize the board to adopt, amend, repeal, or
6 suspend the policies and standards of the board;
- 7 (6) Authorize the board to grant additional licensing
8 extensions through June 30, 2010;
- 9 (7) Make permanent the board's authority to temporarily
10 suspend its rules in extenuating circumstances;
- 11 (8) Make permanent the board's authority to amend
12 licensing-related fees and set or amend other charges
13 related to the performance of its duties; and
- 14 (9) Beginning July 1, 2009, require the board, department
15 of education, and charter school administrative office
16 to implement interim policies and procedures for the
17 mutual sharing of data necessary for licensing and
18 verifying the status of teachers.

19 SECTION 2. Section 302A-801, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§302A-801 Hawaii teacher standards board established.**

- 22 (a) There is established the Hawaii teacher standards board,



1 which shall be placed within the department for administrative
2 purposes only. The board shall consist of [~~thirteen~~] fifteen
3 members, including not less than six licensed teachers regularly
4 engaged in teaching[~~]~~ at the time of the appointment, three
5 educational officers[~~]~~ employed at the time of the appointment,
6 the chairperson of the board of education or the chairperson's
7 designee, the superintendent or the superintendent's designee, a
8 representative of independent schools, [~~and~~] the dean of the
9 University of Hawaii college of education or the dean's
10 designee[~~]~~, and two members of the public; provided that the
11 dean's designee shall be chosen from the member institutions of
12 the teacher education coordinating committee established under
13 section [~~+~~]304A-1202[~~+~~].

14 (b) Except for the chairperson of the board of education,
15 [~~the~~] superintendent, and [~~the~~] dean of the college of
16 education, the governor shall appoint the members of the board
17 pursuant to section 26-34, from a list of qualified nominees
18 submitted to the governor by the departments, agencies, [~~and~~]
19 organizations representative of the constituencies of the
20 board[~~]~~, and current members of the board; provided that the
21 two members of the public shall be from lists of qualified
22 nominees submitted to the governor by the Hawaii Business



1 Roundtable, Hawaii P-20 council, and Hawaii workforce
2 development council. To the extent possible, the board
3 membership shall reflect representation of elementary and
4 secondary school personnel from all islands.

5 (c) Appointed board members shall serve not more than
6 three consecutive three-year terms[~~; provided that the initial~~
7 ~~terms of the appointed members that commence after June 30,~~
8 ~~2000, shall be staggered, as follows:~~

- 9 ~~(1) Three members to serve three year terms,~~
10 ~~(2) Three members to serve two year terms, and~~
11 ~~(3) One member to serve a one year term].~~

12 (d) Board members shall receive no compensation. When
13 board duties require that a board member take leave of the board
14 member's duties as a state employee, the appropriate state
15 department shall allow the board member to be placed on
16 administrative leave with pay and shall provide substitutes,
17 when necessary, to perform that board member's duties. Board
18 members shall be reimbursed for necessary travel expenses
19 incurred in the conduct of official board business.

20 (e) The chairperson of the board shall be designated by
21 the members of the board.



1 (f) The board may employ an executive director for a term
2 of up to four years, who shall be appointed by the board of
3 education without regard to chapters 76 and 89; provided that
4 the board shall submit a nominee to the board of education for
5 approval or disapproval; provided further that if the nominee is
6 disapproved, the board shall submit another nominee to the board
7 of education for approval or disapproval.

8 The board may terminate the executive director's contract
9 for cause; provided that the board shall submit the
10 recommendation for termination to the board of education for
11 approval or disapproval."

12 SECTION 3. Section 302A-803, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§302A-803 Powers and duties of the board.** (a) In
15 addition to establishing standards for the issuance and
16 renewal of licenses and any other powers and duties
17 authorized by law, the board's powers shall also include:

- 18 (1) Setting and administering its own budget;
19 (2) Adopting, amending, or repealing the rules of the
20 board in accordance with chapter 91;
21 (3) Receiving grants or donations from private
22 foundations, and state and federal funds;



- 1 (4) Submitting an annual report to the governor [~~and~~], the
2 legislature, and the board of education on the board's
3 operations and from the 2007-2008 school year,
4 submitting a summary report every five years of the
5 board's accomplishment of objectives, efforts to
6 improve or maintain teacher quality, and efforts to
7 keep its operations responsive and efficient;
- 8 (5) Conducting a cyclical review of standards and
9 suggesting revisions for their improvement;
- 10 (6) Establishing licensing fees in accordance with chapter
11 91 [~~, including the collection of fees by means of~~
12 ~~mandatory payroll deductions, which shall~~] and
13 determining the manner by which fees are collected and
14 subsequently [be] deposited into the state treasury
15 and credited to the Hawaii teacher standards board
16 special fund;
- 17 (7) Establishing penalties in accordance with chapter 91;
- 18 (8) Issuing, renewing, revoking, suspending, and
19 reinstating licenses;
- 20 (9) Reviewing reports from the department on individuals
21 hired on an emergency basis;



- 1 (10) Applying licensing standards on a case-by-case basis
2 and conducting licensing evaluations;
- 3 (11) Preparing and disseminating teacher licensing
4 information to schools and operational personnel;
- 5 (12) Approving teacher preparation programs;
- 6 (13) Administering reciprocity agreements with other states
7 relative to licensing;
- 8 (14) Conducting research and development on teacher
9 licensure systems, beginning teacher programs, the
10 assessment of teaching skills, and other related
11 topics;
- 12 (15) Participating in efforts relating to teacher quality
13 issues, [~~conducting~~] professional development related
14 to the board's standards, and promotion of high
15 teacher standards and accomplished teaching; [~~and~~]
- 16 (16) Adopting applicable rules and procedures[-]; and
17 (17) Adopting, amending, repealing, or suspending the
18 policies and standards of the board.

19 (b) If, in accordance with chapter 92, the board
20 determines, on a case-by-case basis, that extenuating
21 circumstances exist to justify the suspension, the board may
22 temporarily suspend its rules, or any portion thereof. The



1 board shall establish, in accordance with chapter 91, procedures
2 for the suspension of its rules. When determining whether to
3 suspend its rules, the board shall also establish the length of
4 time for which the suspension shall be in effect.

5 (c) The board, in accordance with chapter 92, may also
6 amend licensing-related fees and set or amend other charges
7 related to the performance of its duties."

8 SECTION 4. Section 302A-805, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§302A-805 Teachers; license required; renewals.** (a)
11 Beginning July 1, 2002, all [~~new~~] licenses shall be issued by
12 the board. No person shall serve as a half-time or full-time
13 teacher in a public school without first having obtained a
14 license from the board under this subpart. All licenses issued
15 by the board shall be valid only for the fields and levels
16 specified on the licenses and shall be renewable every five
17 years if the individual continues to:

- 18 (1) Satisfy the board's licensing standards;
19 (2) Show evidence of successful teaching in the previous
20 five years; and
21 (3) Satisfy the board's requirements for renewal of
22 licenses.



1 (b) Teachers whose licenses expire on June 30, 2002, or
2 June 30, 2003, shall be granted an automatic extension of two
3 years.

4 (c) The board, at its discretion, through June 30, 2010,
5 may grant additional extensions. Any previously-approved
6 extensions shall be deemed valid as issued.

7 (d) No person shall be issued a license or teach on an
8 emergency basis in the public schools without having first paid
9 the fees established by the board in accordance with chapter
10 91."

11 SECTION 5. Act 263, Session Laws of Hawaii 2007, is
12 amended by amending section 4 to read as follows:

13 "SECTION 4. This Act shall take effect on July 1, 2007[+
14 ~~provided that on July 1, 2009, section 2 of this Act shall be~~
15 ~~repealed and section 302A-803, Hawaii Revised Statutes, shall be~~
16 ~~reenacted in the form in which it read on June 30, 2007]."~~

17 SECTION 6. (a) Beginning on July 1, 2009, the Hawaii
18 teacher standards board, department of education, and charter
19 school administrative office shall implement interim policies
20 and procedures for the mutual sharing of data necessary for
21 licensing and verifying the status of teachers, including
22 criminal background checks; employment status and work sites;



1 license test information; license validity, fields, and levels;
2 and academic transcripts and program completion information.

3 (b) The interim policies and procedures may be amended to
4 reflect the recommendations of the Hawaii teacher standards
5 board to coordinate the creation of a data interface network
6 consisting of teacher education institutions and the department
7 of education to support the free interchange of information
8 valuable to all of the participating organizations, pursuant to
9 section 10 of this Act.

10 (c) The board, department of education, charter school
11 administrative office, and members of the teacher education
12 coordinating committee shall also develop and implement interim
13 policies and procedures for the mutual sharing of license and
14 employment data necessary for the teacher education institutions
15 to comply with the requirements of the Higher Education
16 Opportunity Act, including criminal background checks;
17 employment status and work sites; license validity, fields, and
18 levels; and teaching performance.

19 PART II

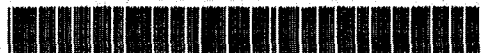
20 SECTION 7. In 2008, Senate Concurrent Resolution No. 83,
21 S.D. 1, requested the auditor to conduct a study on the
22 appropriate accountability structure for the Hawaii teacher



1 standards board, and to report the findings and recommendations
2 to the 2009 legislature. Report No. 09-05, Study on the
3 Appropriate Accountability Structure of the Hawai'i Teacher
4 Standards Board, submitted in February 2009, focused on
5 determining whether the board has delivered an effective
6 licensing and re-licensing program, which is its core function.
7 Using the department of commerce and consumer affairs as the
8 model for boards and commissions administratively attached to an
9 agency, the report compared that model with the Hawaii teacher
10 standards board and examined other states for alternatives for
11 licensing programs.

12 The auditor's report found a number of problems, including
13 ineffective management of the licensing function, lack of
14 oversight, and miscommunication between the Hawaii teacher
15 standards board and department of education regarding
16 responsibilities and accountability. While the auditor's report
17 provided considerable useful information, its release in the
18 middle of the 2009 legislative session did not allow time to
19 develop meaningful responses.

20 The purpose of this part is to develop specific
21 recommendations to address the concerns raised in the auditor's
22 report.



1 SECTION 8. (a) The legislative reference bureau shall
2 review the findings of the auditor's Report No. 09-05, and other
3 information as appropriate, and make recommendations, including
4 proposed legislation, regarding:

5 (1) Whether there is a need for oversight of the Hawaii
6 teacher standards board, and how oversight is provided
7 for similar boards; and

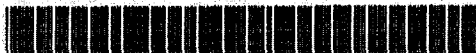
8 (2) How to strengthen and clarify interagency roles,
9 responsibilities, and relationships between the board,
10 department of education, and teacher education
11 coordinating committee.

12 (b) The legislative reference bureau shall submit its
13 findings and recommendations, including all proposed legislation
14 and budget requests, to the legislature no later than twenty
15 days prior to the convening of the regular session of 2010.

16 SECTION 9. (a) The dean of the University of Hawaii at
17 Manoa college of education shall convene a working group to
18 review and make recommendations to address:

19 (1) Licensing rules and their impact on teacher workforce
20 needs in Hawaii;

- 1 (2) Relicensing and tiered licensing options to ensure
- 2 effective teachers and continuing development of
- 3 teachers;
- 4 (3) Streamlining processes for reviewing out-of-state and
- 5 military applicants for licensure;
- 6 (4) Alignment of licensing standards and requirements with
- 7 the federal No Child Left Behind Act;
- 8 (5) Teacher preparation program alignment with national
- 9 standards and the role of national accreditation of
- 10 teacher preparation programs in Hawaii; and
- 11 (6) The role of higher education institutions in assisting
- 12 teachers in achieving National Board certification.
- 13 (b) The working group shall consist of seven members as
- 14 follows:
- 15 (1) The dean of the University of Hawaii at Manoa college
- 16 of education, or the dean's designee;
- 17 (2) The superintendent of education, or the
- 18 superintendent's designee;
- 19 (3) The chairperson of the Hawaii teacher standards board,
- 20 or the chairperson's designee;
- 21 (4) The executive director of the Hawaii P-20 council, or
- 22 the executive director's designee;



1 (5) The executive director of the Hawaii state teachers
2 association, or the executive director's designee;

3 (6) The division administrator of the professional and
4 vocational licensing division of the department of
5 commerce and consumer affairs, or the division
6 administrator's designee; and

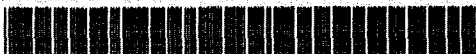
7 (7) A member of the National Milken Educators of Hawaii.

8 The working group may consult with other educational and
9 licensing organizations and individuals, as appropriate. The
10 working group shall cease to exist on June 30, 2010.

11 (c) The dean shall submit the findings and recommendations
12 of the working group, including any proposed legislation and
13 budget requests, to the legislature no later than twenty days
14 prior to the convening of the regular session of 2010.

15 SECTION 10. (a) The Hawaii teacher standards board shall
16 review the findings of the auditor's Report No. 09-05, and shall
17 make recommendations for policy and procedural changes necessary
18 to refocus and support the purpose of the Hawaii teacher
19 standards board. At a minimum, the board shall consider:

20 (1) Procedures to streamline the appeals process, pursuant
21 to section 302A-807, Hawaii Revised Statutes;



1 (2) Amendments to the current licensing fees, if required,
2 to meet the operating costs associated with the Hawaii
3 teacher standards board;

4 (3) Requirements for training of licensing and
5 administrative personnel to provide increased
6 accessibility and customer service;

7 (4) Procedures to improve the coordination of the interim
8 policies and procedures related to the creation of a
9 data interface network consisting of teacher education
10 institutions and the department of education to
11 support the free interchange of information valuable
12 to all of the participating organizations; and

13 (5) Recommendations as to whether the board may be
14 authorized to request attendance of a deputy attorney
15 general at the meetings of the board.

16 (b) The Hawaii teacher standards board shall submit its
17 findings and recommendations, including any proposed legislation
18 and budget requests, to the legislature no later than twenty
19 days prior to the convening of the regular session of 2010.

20 PART III

21 SECTION 11. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 12. This Act shall take effect on July 1, 2009;
2 provided that on July 1, 2010, section 4 of this Act shall be
3 repealed and section 302A-805, Hawaii Revised Statutes, shall be
4 reenacted in the form in which it read on June 30, 2009.

