

SB2568



**EXECUTIVE CHAMBERS**

HONOLULU

**LINDA LINGLE**  
GOVERNOR

Testimony of  
**Linda L. Smith**  
Senior Policy Advisor to the Governor

Before the  
**SENATE COMMITTEE ON EDUCATION & HOUSING**

Monday, February 8, 2010, 1:45 PM  
State Capitol, Room 225

**S.B. 2568, S.B. 2938, S.B. 2569, S.B. 2570, S.B. 2571**

Chair Sakamoto, Vice Chair Kidani, and members of the Committee:

Thank you for hearing bills today that propose to restructure Hawaii's public education system. The Administration recommends that the Committee adopt the approach and language contained in the Administration-sponsored bills, S.B. 2705 and 2706.

The first bill, S.B. 2706, gives Hawaii voters the opportunity to decide whether or not to amend the State Constitution to repeal the publicly-elected Board of Education and establish the Department of Education as a cabinet-level department. These constitutional changes lay the groundwork to restructure the State's public education system in which the Department of Education is headed by a superintendent that is appointed by the Governor and confirmed by the Senate. The proposed question to be placed on the ballot is:

*"Shall the State Constitution be amended to make the department of education into a cabinet-level department, without an elected Board of Education, headed by a superintendent appointed by the governor and confirmed by the state senate, similar to other departments of state government?"*

These changes will make the Governor directly accountable for the condition of public education within the State, as the Governor will be held accountable for his or her selection of the Superintendent, and the subsequent educational performance under that Superintendent. Under this structure, Board of Education functions are transferred to the Superintendent with final decision-making resting with the Governor.

The second bill, S.B. 2705, makes the statutory amendments necessary to effectuate the new governance system proposed in S.B. 2706. The bill's key provisions are:

1. Repeals the powers and duties of the publicly-elected Board of Education and transferring most of these duties to the Superintendent of Education. For example, the Superintendent will have the authority to adopt administrative rules.
2. Authorizes the Governor to appoint the Superintendent of Education with the advice and consent of the Senate, which will align with the current process for selecting all other state department heads.
3. Authorizes the Superintendent to appoint three deputy directors. One deputy will be assigned to oversee the management of school administration, which will include the state libraries, fiscal services, facilities, and human resources. One deputy will focus on the department's efforts to improve student achievement through managing curriculum and providing students with the necessary support to improve student performance. One deputy will oversee the Charter School Administrative Office and facilitate development of public charter schools.

These changes will improve the State's ability to effectively manage its educational resources and execute policies and procedures. More importantly, it also creates a school system in which parents, teachers, students, and the public at large will be able to hold the governor, as the State's chief executive as provided by law, directly accountable for the condition of public education within the State.

The Administration cautions the Committee against passing out bills that have the appearance of education reform, but merely make changes to the way in which Board of Education members are selected. For example, S.B. 2569 and S.B. 2571 establish a commission to nominate candidates to the Board of Education. To do so would actually create another layer of bureaucracy to an already opaque governance system and move the State further away from creating a system of increased accountability.

Therefore, we strongly urge the committee to adopt the language in S.B. 2706 and 2707, in lieu of the provisions in the bills being heard today. A proposed organizational chart for the Department of Education is attached for the Committee's review. Thank you for the opportunity to provide testimony on these measures.

Date of Hearing: Monday, February 8, 2010

Committee: Senate Committee on Education and  
Housing

Person Testifying: Garrett Toguchi, Chairperson, Board of Education

Title of Bill: S.B. No. 2568, Proposing an Amendment to Article X, Section 2, of the Hawaii Constitution, to Change the Board of Education From an Entirely Elected Board to a Partially Elected, Partially Appointed Board

Purpose of Bill: Proposes an amendment to Article X, Section 2, of the Hawaii State Constitution to establish a Board of Education whose membership comprises no fewer than five voting members who are elected, and a majority of voting members who are appointed by the Governor, with the advice and consent of the Senate, from pools of qualified candidates presented to the Governor by the Board of Education Candidate Nomination Commission.

Board's Position: Chairperson Sakamoto, Vice Chairperson Kidani, and members of the Senate Committee on Education and Housing, thank you for the opportunity to testify on S.B. No. 2568.

The Board of Education (Board) opposes S.B. No. 2568, which proposes a constitutional amendment to establish a Board of Education whose membership comprises no fewer than five voting members who are elected, and a majority of voting members who are appointed by the Governor, with the advice and consent of the Senate, from pools of qualified candidates presented to the Governor

by the Board of Education Candidate Nomination Commission.

Under this bill, Hawaii's elected Board of Education, *determined by the voters* of our State, would be replaced with a "hybrid board"—a *minority* of board members would be elected by the voting public and the *majority* of board members would be appointed by the Governor. Such a board composition, from its inception, would lend itself to a fractured board with some board members accountable to voters and some board members accountable to the Governor. A minority/majority board-member configuration is divisive and would detract from the Board's work. An *elected* board, however, validates and supports the importance of choice and change in a democratic society.

Making part of the Board appointed by the Governor—moreover a majority of the Board appointed by the Governor—would centralize educational decision-making too largely in the Executive Branch.

Under this bill, educational decision-making would be weighted heavily under the Governor, with the majority of Board members falling under the Governor's direction and appointment. Under a hybrid board structure in which some of the board members are appointed by the Governor, it is important to note that those appointed board members

would be accountable only to one constituent: the Governor who appoints those Board members to office.

A board in which some members are appointed would make the Board partisan, with the appointed members subject to the political affiliation of the governor at that particular time. Appointed board members would also be beholden to the governor, the appointing authority, with the governor having varying degrees of influence over his or her appointed members in driving educational decisions and policy. Appointed board members would make decisions in lock-step with the governor. For example, a hybrid board under Governor Lingle would likely have furloughed teachers and other employees 36 days each year under the Governor's initial proposal, and an appointed board would have validated the Governor's 36 day each year furlough proposal.

Unlike a hybrid and appointed board, elected Board of Education members are nominated in a *nonpartisan* primary election and are elected in a *nonpartisan* general election. A nonpartisan elected board assures independence in appointing a superintendent, without the trappings of political party affiliation. A hybrid board compromises the very thing that appointed board advocates tout in pushing for an

appointed board: accountability. A hybrid board polarizes the entire board with its dual configuration.

An elected board is representative of a diverse cross section of viewpoints and individuals who are reflective of our communities. An elected board offers varying viewpoints that are discussed and hashed out publicly to form a Board position on policy and other educational matters. The great thing about an elected board is that anyone who meets the residency requirements, is a registered voter, and does not hold any other public state or county government office, can run for a seat on the state Board of Education. Former legislators, school administrators, teachers, a police chief, attorneys, social workers, a military officer, business executives, and others from diverse and varied professional backgrounds and experiences have all served or serve on our elected board.

The Board believes that citizen control over education is essential to ensure that all members of our community have a say, a voice, and a vote as to who represents them on their state education board. Under an elected governance structure, voters assert their right to determine who serves them in office and have the ability to elect individuals out of office.

Changing the Board of Education from an elected board to a hybrid board is no panacea for the challenges facing education in our State. There is no evidence that a shift to a hybrid board will be more effective, or accountable, or improve student achievement. In fact, while the federal Race to the Top Fund grant advances educational reform in four specific areas: (1) adopting standards and assessments for student success; (2) building data systems that measure student growth and success; (3) recruiting, developing, rewarding, and retaining effective teachers and principals; and (4) turning around our lowest-achieving schools, the grant competition does not suggest a hybrid board governance structure.

Educational improvements are a continuous process that occurs over time. Educational improvements occur when our educational system, schools, and classrooms are supported with adequate resources, a strong curricula, effective teachers, and other direct learning supports and resources to help children learn. These supports will have the strongest and most direct impact on student learning and achievement.

Education should be supported by all decision-makers and important stakeholders involved in education: the Board, the Superintendent, the Governor, the Legislature, and the community. Responsibility and

accountability must be shared by all involved.

Lastly, state boards have always been regarded as critical to insuring education as a state function, with the responsibilities of state boards reflecting two deeply-held educational values: the lay governance of education and the separation of educational policymaking from partisan politics.

We ask you to entrust the public with the power to vote for their Board of Education members, as they do for their governor and legislators. Education is everyone's business, not just a few.

Thank you for the opportunity to testify on this measure.



**SB2568**

**PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, OF THE HAWAIIÏI  
CONSTITUTION, TO CHANGE THE BOARD OF EDUCATION FROM AN ENTIRELY  
ELECTED BOARD TO A PARTIALLY ELECTED, PARTIALLY APPOINTED BOARD**  
Committee on Education and Housing

Date: February 8, 2010  
225

Time: 1:45 p.m.

Room:

---

The Office of Hawaiian Affairs (OHA) stands in opposition to SB2568 which proposes an amendment to Article X, Section 2, of the Hawaiïi Constitution, to change the Board of Education from an entirely elected board to a partially elected, partially appointed board. The State Board of Education has its roots in the school laws of 1840 as does the entire educational system which as established by Kauikeaouli, Kamehameha III. It was he who stated, "Mine shall be a kingdom of literacy. The righteous man shall be the model of citizenry. The life of the land is perpetuated in righteousness". ". That kingdom of literacy and the school laws of 1840 would be shaped by the Massachusetts School Laws of 1642 and 1647 developed so that the "youth would be fit for ye (the) university". Each community, then, elected a local committee to govern the operation of the school (Wist, 1940). While times have indeed changed, the Board of Education continues to reflect this long-held American tradition of lay governing boards and citizen participation in the educational process. Furthermore, the election of the board of education reflects a deeply held American value of the separation of powers and this is especially true in regards to the separation of educational policymaking from partisan politics.

According to a policy statement by the national Association of State Boards of Education (January 2007):

"While others in the policymaking process tend to reflect specific concerns and more political perspectives, the state board is intended to serve as an unbiased broker of education decisionmaking, focusing on the big picture, articulating the long-term vision and needs of public education, and making policy based on the best interests of the public and the young people of America."

Therefore, OHA opposes any change to the Hawaiïi Constitution regarding changes at this time to an elected board of education as

proposed in SB 2571. The Hawai'i Constitution, Article X, Section 2, currently serves the people of Hawai'i.

However, OHA does recognize the longstanding discussion on the locus of control and accountability issue with the state's large educational system. Native Hawaiians, who once enjoyed high literacy rates in kingdom schools, now find themselves at the bottom tier of statistics in academic achievement, school retention, and graduation and in the upper tier for higher percentages in absenteeism rates, special education enrollment, and teen pregnancy. There is a need for change in structure and governance.

Much work has already been done in researching Hawai'i's governance structure and its many problems. Several studies have been conducted and recommendations made by previous administrations. Governor Burns convened the Commission on Operation, Revenues, and Expenditures (CORE) which recommended decentralization. Governor Waihe'e used the Berman Report of 1988 which recommended a shift to community-centered school system and local school and community boards in his administration's attempt to decentralize the D.O.E. In 1992, the Task Force on Educational Governance headed by then Lt. Governor Ben Cayetano also recommended shifting locus of control and decision-making to schools. Therefore, OHA recommends that the state rethink the issue and contemplate amending the Hawai'i Constitution to institute elections for local school boards but appoint a statewide school board. This is common practice in other states.



1200 Ala Kapuna Street λ Honolulu, Hawaii 96819  
Tel: (808) 833-2711 λ Fax: (808) 839-7106 λ Web: www.hsta.org

**Wil Okabe**  
President

**Karolyn Mossman**  
Vice President

**Joan Kamila Lewis**  
Secretary-Treasurer

**Jim Williams**  
Interim Executive Director

## TESTIMONY BEFORE THE SENATE COMMITTEE ON EDUCATION AND HOUSING

RE: SB 2568, SB 2938, SB 2569, SB 2570, SB 2571, SB 2242, SB 2958, SB 2959,  
SB 2961

February 8, 2010

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Sakamoto and Members of the Committee:

The Hawaii State Teachers Association believes in an elected school board.

From the earliest days of our republic, American leaders recognized the central role public education plays in educating the whole people and creating a shared American culture and cohesive society. To this end, they created a citizenry group to guide and develop policies for education. These citizen groups are in every community across the nation and are known as school boards. School boards were chosen by the people they served. Today, 96% of the school boards are elected.

We believe in an elected Board of Education because we believe that an elected board is more likely to represent the view of the voters rather than the interest of the governor who appoints them. Elected board members would be accountable to the community, rather than be accountable to an individual, the governor. The electorate would hear what the candidates stand for and so would know what they were electing. Voters are more engaged, to know who the candidates are and to ask them questions about their positions. Under a system where offices are appointed, voters are not given an opportunity to directly question the people who will be making decisions. This interaction generates interest and ownership of our school system.

An appointed board would disenfranchise the parents who are active in the development of the school system.

One of the arguments against of an elected board is that the voters do not know who the candidates are. We urge this committee to give serious consideration to House Bill 2424 which creates board districts. The board member would run from and be elected from a board district. This would create direct accountability to the voters.

We urge this committee to keep an elected board of education.

Thank you for opportunity to testify.



**S E A C**  
**Special Education Advisory Council**  
919 Ala Moana Blvd., Room 101  
Honolulu, HI 96814  
Phone: 586-8126 Fax: 586-8129  
email: [spin@doh.hawaii.gov](mailto:spin@doh.hawaii.gov)

February 8, 2010

**Special Education  
Advisory Council**

Ms. Ivalee Sinclair, *Chair*  
Mr. Steve Laracuente, *Vice  
Chair*

Ms. Brendelyn Ancheta  
Ms. Sue Brown  
Ms. Deborah Cheeseman  
Ms. Annette Cooper  
Ms. Phyllis DeKok  
Ms. Mary Ellis  
Ms. Debra Farmer  
Ms. Gabriele Finn  
Ms. Martha Guinan  
Mr. Henry Hashimoto  
Dr. Martin Hirsch  
Ms. Tami Ho  
Ms. Barbara Ioli  
Ms. Shanelle Lum  
Ms. Rachel Matsunobu  
Ms. Kristy Nishimura  
Ms. Connie Perry  
Ms. Barbara Pretty  
Ms. Kau'i Rezentes  
Dr. Patricia Sheehey  
Mr. August Suehiro  
Ms. Judy Tonda  
Ms. Cari White  
Ms. Jasmine Williams  
Mr. Duane Yee  
Mr. Shawn Yoshimoto

Jan Tateishi, Staff  
Susan Rocco, Staff

Senator Norman Sakamoto, Chair  
Senate Committee on Education and Housing  
State Capitol  
Honolulu, HI 96813

RE: SB2568 – PROPOSING AN AMENDMENT TO ARTICLE X,  
SECTION 2, OF THE HAWAII CONSTITUTION, TO CHANGE  
THE BOE FROM AN ENTIRELY ELECTED BOARD TO A  
PARTIALLY ELECTED, PARTIALLY APPOINTED BOARD

Dear Chair Sakamoto and Members of the Committee,

The Special Education Advisory Council (SEAC), Hawaii's State Advisory Panel under the Individuals with Disabilities Education Act (IDEA), **opposes** SB2568 which proposes a constitutional amendment to require a minority, but no fewer than five, of the voting members of the Board of Education to be elected, and a majority of the voting members to be appointed by the Governor, with the advice and consent of the Senate. A Board of Education Candidate Nomination Commission would be established to forward qualified nominees to the Governor for appointment.

SEAC holds that having a Board of Education whose members are elected in a nonpartisan manner rather than appointed provides a needed check and balance to unilateral decisions by the Governor regarding public education. A Board that is split between elected and appointed members would be less accountable, in our view, than a purely elected Board. We also believe that the proposed BOE Candidate Nomination Commission is an unnecessary layer of political bureaucracy.

Thank you for the opportunity to provide testimony on this issue. Should you have any questions, I would be happy to answer them.

Sincerely,

Ivalee Sinclair, Chair