



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/24/2021

Time: 03:15 PM

Location: CR 229 & Videoconference

Committee: Senate Education

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 0608, SD1 RELATING TO THE BOARD OF EDUCATION.

Purpose of Bill: Requires the board of education to hold no less than six community forums annually, with at least one forum in each county. Requires the board to include an open forum for public comments on non-agenda items. Requires a report to the legislature on implementing open forums. Effective 7/1/2050. (HD2)

Department's Position:

The Hawaii State Department of Education ("Department") respectfully opposes HB 608, HD2, SD1 (Proposed), Part II, which incorporates SB 810, SD1 into the current measure and eliminates the Superintendent of Education as a voting member for purposes of negotiating collective bargaining agreements for Bargaining Unit 05 (teachers) and Bargaining Unit 6 (Educational Officers). Bargaining Unit 05 consists of over 13,000 Department of Education Employees (teachers, counselors, librarians) and Bargaining Unit 06 includes nearly 1,000 Department employees serving as educational leaders (Principals, Vice Principals and educational officers) throughout the Department.

Eliminating the Superintendent from the collective bargaining team will have negative consequences and is inconsistent with the manner in which the other bargaining units and their employers operate during collective bargaining. Furthermore, the Superintendent of Education is responsible for the day-to-day operations of the Department and understands the impacts the collective bargaining agreements will have on daily operations at the school, complex and state level functions at the Department.

Currently, the Superintendent, in consultation with the Office of Collective Bargaining, Department of Human Resource Development, Department of Budget and Finance, and the Department of the Attorney General, Employment Law Division, mitigates collective bargaining impacts and its effect on other bargaining units, otherwise known as the whipsaw effect.

The Superintendent provides fundamental operational insight at the bargaining table that impacts approximately 23,000 salaried employees in nine (9) bargaining units (1, 2, 3, 4, 5, 6, 9, 10 and 13) throughout its statewide system across four (4) counties to understand and evaluate union demands.

The Superintendent oversees three (3) distinct personnel systems: certificated personnel, civil service personnel, and support services personnel whose employees serve a traditional 12-month work schedule (similar to other public employer jurisdictions) and a 10-month work schedule that is aligned to the official school calendar.

The Board of Education, whose role is to establish education policies for the Department, works collaboratively with the Superintendent and expects the Department to carry out Board policies and to operate the Department effectively and efficiently. Because the collective bargaining agreements prescribe wages, hours and other conditions of work, the Superintendent must be actively involved as a participant and voting member of the negotiations process and be able to have a voice and a vote on mandatory subjects of bargaining.

The Superintendent also has a Labor Relations Office whose role is to address grievances as a result of perceived or actual violations of the collective bargaining agreements. Without a vote at the table, the Superintendent will have less opportunity to influence the agreement, which may negatively impact disputes over the contract after it is approved.

The Department strongly believes the best option is to maintain the current language of Section 89-6(d)(3), Hawaii Revised Statutes, which includes the Superintendent with a seat at the bargaining table and provides an equitable balance that facilitates fair collective bargaining negotiations.

Thank you for the opportunity to provide testimony for HB 608, HD2, SD1 (proposed).

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Education

From: Cheryl Kakazu Park, Director

Date: March 24, 2021, 3:15 p.m.
Via Videoconference

Re: Testimony on H.B. No. 608, H.D. 2, Proposed S.D. 1
Relating to the Board of Education

Thank you for the opportunity to submit testimony on this bill, which would require the Board of Education (BOE) to hold community forums and would set requirements for those community forums to qualify as a permitted interaction under the Sunshine Law. The Office of Information Practices (OIP) takes no position on the requirement to hold community forums, but **has concerns that the permitted interaction as set out in the Proposed S.D. 1**, which have not changed with respect to the Sunshine Law since H.D. 2 and still confusingly overlaps with the requirements for a Sunshine Law meeting while not actually being treated as a meeting. It is not clear what is gained by having community forums attended by a majority of board members be governed by a special set of permitted interaction standards instead of being simply run as a meeting. **To avoid disputes over the meaning of the proposed amendments, OIP offers its services to prepare appropriate language once the Committee's intent is made clear.**

Under the permitted interaction set out by the Proposed S.D. 1, the BOE is still required to file a notice following the same Sunshine Law standards for holding

a meeting, which are found at HRS section 92-7. Those standards include an agenda listing all items the board will consider at the meeting, which means that the BOE members would be barred from considering issues not listed on the filed agenda for a community forum. But if the purpose of the community forum is to allow members of the public to speak to board members about whatever is on their minds, having a limited list of topics board members can discuss would seem contrary to that purpose and likely to result in frustration for members of the public who wish to speak with board members about a different topic, especially given that members of the public are expressly permitted to raise any education or library issue at a community forum.

The proposed permitted interaction has other features that are similar to but not the same as regular Sunshine Law meeting requirements, potentially resulting in a complaint requiring OIP or a court to interpret exactly how they differ, such as the new requirement on page 2, lines 17-20 to hear from members of the public in a way that somewhat differs from the Sunshine Law's meeting testimony requirement.

Since the Board of Education has expressed in its previous testimony that it does not believe legislation is necessary to codify its existing practice of holding community forums, OIP defers to the BOE's preference to continue holding these forums under the existing provisions of the Sunshine Law rather than to create a new statute requiring and setting different and possibly conflicting standards for them. Should this Committee nevertheless prefer to codify the practice, OIP would be happy to work with the BOE and the Committee to determine what form of permitted interaction would best balance the BOE's needs with the public interest, which may entail changing the requirement in the Proposed S.D. 1 that the BOE's discussion at such forums be limited to topics listed on its filed agenda.

Senate Committee on Education
March 24, 2021
Page 3 of 3

OIP takes no position on the new language in Proposed S.D. 1 pertaining to chapter 89, HRS.

Thank you for considering OIP's concerns.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

SENATE COMMITTEE ON EDUCATION
Wednesday, March 24, 2021, 3:15 pm, State Capitol Room 229
HB 608, HD 2, Proposed SD 1
Relating to the Board of Education

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Kidani and Committee Members:

The League of Women Voters of Hawaii opposes HB 608, HD 2, Proposed SD 1 because of Constitutional concerns. Article III, Section 14 of the Hawaii State Constitution provides “Each law shall embrace but one subject which shall be expressed in its title.” Part I and Part 2 of the Proposed SD 1 address two unrelated subjects, and the subject of Part II is not permitted by the bill’s title. The subject of Part I of the proposed SD 1 is the use of community forums and board meetings to expand public input to the Board of Education. The subject of Part II of the Proposed SD 1 is whether the Superintendent of Education can vote during negotiation of collective bargaining agreements with bargaining units 5 and 6. The title of this bill is “Relating to the Board of Education”.

Apart from Constitutional concerns, we first received notice of the 3:15 pm March 24, 2021 public hearing on the Proposed SD 1 at 5:31 pm on March 23, 2021.

Thank you for the opportunity to submit testimony.

HB-608-HD-2

Submitted on: 3/23/2021 7:19:14 PM

Testimony for EDU on 3/24/2021 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Support	No

Comments:

Notice received March 23 at 5:31 pm. Do not stamp late please.

Now I SUPER strongly support this bill. THANK YOU FOR
HB608_SD1_PROPOSED!!!!

NO EXPLANATION NEEDED!δÿα—