

SB2938



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. 2938, Proposing an Amendment to the Hawaii
Constitution, to Change the Composition of the Board of Education

Purpose of Bill: Proposes an amendment to Article X, Section 2, of the Hawaii State
Constitution to change the composition of the Board of Education
by having seven members elected at-large and four members
appointed by the Governor, subject to the advice and consent of
the Senate.

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. 2938.

The Board of Education (Board) opposes S.B. No. 2938, which
proposes a constitutional amendment to establish a Board of
Education whose membership comprises seven members who are
elected at-large and four members who are appointed by the
Governor, subject to the advice and consent of the Senate.

Under this bill, Hawaii's elected Board of Education, *determined by
the voters* of our State, would be replaced with a "hybrid board"—
some board members would be elected by the voting public and

some board members would be appointed by the Governor. Such a board composition, from its inception, would lend itself to a fractured board with board members accountable to both voters and the Governor. A hybrid 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.

Any effort to make part or all of the Board appointed by the Governor would weight educational decision-making in the Executive Branch. A hybrid Board or appointed Board governance structure would also make compulsory education subject to the decisions of a governor who is in office at the time. 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 have but 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.



SB2938
PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 2, TO CHANGE THE
COMPOSITION OF THE BOARD OF EDUCATION
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 SB2938 which proposes an amendment to Article X, Section 2, of the Hawai'i Constitution, to change the composition of the Board of Education by having 7 members elected at-large and 4 members appointed by the governor subject to senate confirmation. The State Board of Education has its roots in the school laws of 1840 as does the entire educational system which as established by 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".

The Hawaiian kingdom laws of 1840 were similar to the Massachusetts School Laws of 1642 and 1647 where each community 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 Hawai'i Constitution regarding changes to an elected board of education as proposed in SB 2938. The Hawai'i Constitution, Article X, Section 2,

currently serves the people of Hawai'i. Please continue the democratic tradition of lay governing boards and citizen participation in the educational process.



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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
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February 8, 2010

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

RE: SB2938 – PROPOSING AN AMENDMENT TO THE HAWAII
CONSTITUTION TO CHANGE THE COMPOSITION OF THE
BOARD OF EDUCATION

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** SB2938 which proposes a constitutional amendment
to change the composition of the board of education by having seven
members elected at-large and four members appointed by the Governor
subject to Senate confirmation.

SEAC's position is 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.

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