

Date of Hearing: January 30, 2008

Committee: House Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. 2792, Relating to education

Purpose: To provide for periodic wage adjustments for substitute teachers that are comparable to the wage adjustments negotiated for teachers in bargaining unit 5.

Department's Position: The Department of Education supports H.B. 2792 to provide periodic wage adjustments for substitute teachers with the inclusion of clarifying language in Section 2 (f) and amendment to include appropriations for the 2007 - 2008 and 2008 – 2009 school years.

Clarifying language for Section 2 (f): “Effective July 1, 2008, the board of education shall provide wage adjustments for substitute teachers. The wage adjustments shall be comparable to the across-the-board percent wage adjustments for teachers that are negotiated with collective bargaining unit 5.”

Amendment: There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 for fiscal year 2008-2009 for retroactive across-the-board pay increases to substitute teachers for the 2007 – 2008 school year; and for negotiated across-the-board pay increases for the 2008 – 2009 school year. These funds will be recurring costs each fiscal year.



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
EDUCATION**

RE: HB 2792 - RELATING TO EDUCATION

January 30, 2008

**ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Takumi and Members of the Committee:

The Hawaii State Teachers Association supports HB 2792.

We believe substitute teachers play a vital role in our schools. This legislation adjusts substitute teachers wages to be comparable to the wage adjustments for teachers that were negotiated with collective bargaining unit 5.

Thank you for the opportunity to testify.



BEFORE THE

HOUSE COMMITTEE ON EDUCATION

Honorable Roy Takumi, Chair
Honorable Lyla Berg, Vice Chair

HB2792 RELATING TO EDUCATION

TESTIMONY OF
PAUL ALSTON, ESQ.
WILLIAM M. KANEKO, ESQ.

Attorneys for Substitute Teachers in
Garner v. Department of Education and *Klitternick v. Hamamoto*

Wednesday, January 30, 2008, 2:00 pm
State Capitol Room 309

Chair Takumi and members of the House Committee on Education:

We represent Hawaii's substitute teachers in *Garner v. DOE* and *Klitternick v. Hamamoto*. We **STRONGLY SUPPORT** HB 2792, which provides wage adjustments to substitute teachers that are comparable to wage adjustments that are negotiated for teachers in collective bargaining unit 5.

HB2792 provides a fair and reasonable mechanism to determine substitute teacher pay, including providing appropriate benefits. Because substitute teacher pay is set by statute, and not by a collective bargaining agreement, to adjust substitute teacher pay would require potentially annual visits to the Legislature. As a matter of efficiency, tying substitute teacher pay to regular teachers in collective bargaining unit 5 is highly appropriate.

It should be noted, however, that the rates now appearing in Haw. Rev. Stat. §302A-624(e) are only interim rates that were established to provide partial relief to substitute teachers while the pending class actions are pending. It is unclear when these cases will be resolved on appeal.

In 2007, while class II teachers received a 4% pay increase, the DOE refused to provide substitute teachers with a corresponding percentage increase, despite the express statement of legislative intent in Act 263 that substitutes' interim pay rates were to increase commensurate with the raises negotiated by regular teachers. The DOE's refusal to heed the guidance given in Act 263 was—and is—inexcusable.

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Hence, we strongly support HB2792 which would provide clear guidance to the DOE that substitute teacher pay be comparable to teachers in collective bargaining unit 5.

In light of the history and background of the current pay rate for substitute teachers and HB2792, we also recommend the following amendments:

- Add new section outlining the historical background and intent of the Legislature to provide pay rate increases to the interim pay rate set by the Legislature until the courts will finally determine substitute teacher pay. The section would be consistent with Act 70 and Act 263, which in its Conference Committee Report No. 216-06 stated in relevant part:

The intent of this measure is to provide relief to Hawaii's substitute teachers while the long-standing dispute in *Garner v. DOE* (Civil No. 03-1-000305) and *Klitternick v. Hamamoto* (Civil No. 05-1-0031-01) is being litigated. . . . Similar to Act 70, Session Laws of Hawaii 2005, this measure provides an interim pay rate for substitute teachers until *Garner v. DOE* and *Klitternick v. Hamamoto* are resolved. At that time, this Committee urges the Legislature to make appropriate adjustments, including retroactive pay adjustments, to substitute teacher pay in accord with the appellate court's final ruling. (Emphasis added).

- Provision for retroactive pay for substitute teachers for pay rate increases not received in 2007.
- Further clarify Section 2 specifying that future pay rates are to increase whenever raises are given to licensed class II teachers in bargaining unit 5. Providing clear guidance to the DOE to use class II teacher pay to control future pay rates will minimize potential disputes about substitute teacher pay. Furthermore, tying substitute teacher pay to class II teachers is consistent with the original intent of the 1996 substitute teacher statute.

Thank you for the opportunity to testify on this matter. We **STRONGLY SUPPORT** (with amendments) HB2972.

**TESTIMONY OF THE
HAWAII CARPENTERS UNION, LOCAL 745**

January 29, 2008

TO: Honorable Roy Takumi, Chair
Honorable Lyla Berg, Vice Chair

RE: HB2792 RELATING TO EDUCATION
Wednesday, January 30, 2008, 2:00 pm
State Capitol Room 309

Chair Takumi:

The Hawaii Carpenters Union strongly supports HB 2792. The purpose of this measure is to provide wage adjustments to substitute teachers that are comparable to wage adjustments that are negotiated for teachers in collective bargaining unit 5.

For the past several years, the Hawaii Carpenters Union has supported Hawaii's 5000 substitute teachers during their plight for fair wages. Their long-standing dispute with the DOE is troublesome, and we are pleased that the Legislature has stepped in to provide temporary relief by setting an interim rate pay rate in 2005 and 2006.

HB2792 provides a reasonable means to determine substitute teacher pay, including the possibility of obtaining benefits. Substitute teachers receive no health, retirement or other benefits provided to similarly situated government workers. HB2792 would provide the DOE with sufficient authority to address this issue.

Thank you for the opportunity to testify on this matter.