

Date of Hearing: February 22, 2008

Committee: Senate Ways and Means

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: S.B. 2652, SD1 (SSCR2142), 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, and appropriates funds therefor.

Department's Position: The Department of Education supports S.B. 2652, SD1 (SSCR2142) to provide periodic wage adjustments for substitute teachers that are comparable to the wage adjustments negotiated for teachers in bargaining unit 5. Enactment of S.B. 2652, SD1 (SSCR2142) will recognize the vital role of substitute teachers in our public schools.

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

February 20, 2008

TO: Honorable Roz Baker
Chair, Senate Committee on Ways & Means

RE: SB2652, SD1 RELATING TO EDUCATION
Friday, February 22, 2008, 11:00 am
State Capitol Room 211

Chair Baker:

The Hawaii Carpenters Union strongly supports SB2652, SD1. The bill establishes that the compensation of substitute teachers shall be tied to the salary or wage increases provided to bargaining unit 5 teachers of the Department of Education, and appropriates funds for retroactive pay and per diem increases for substitute teachers.

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. SB2652, SD1 provides a reasonable means to determine interim substitute teacher pay on an on-going basis until the lawsuits with the DOE are resolved.

SB2652, SD1 also provides retroactive wages for substitute teachers for the 2007-08 school year. While regular teachers received a 4% increase; substitute teachers receive no increases. It's only fair that substitute teachers receive similar pay increases for their service to our students.

Proposed Amendment: We request that clarifying language be inserted that the rates in SB2652, SD1 are for interim pay rates only until the pending lawsuits are resolved.

Thank you for the opportunity to testify on this matter.



Attorneys at Law • A Law Corporation

BEFORE THE
SENATE COMMITTEE ON WAYS & MEANS
Senator Roz Baker, Chair
Senator Shan Tsutsui, Vice Chair
SB2652, SD1 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*

Friday, February 22, 2008, 11:00 am
State Capitol Room 211

Chair Baker, Vice Chair Tsutsui and members of the Committee:

We represent Hawaii's substitute teachers in *Garner v. DOE* and *Klitternick v. Hamamoto*. We **STRONGLY SUPPORT (with amendments)** SB2652, SD1 which provides wage adjustments to substitute teachers that are comparable to wage adjustments that are negotiated for teachers in collective bargaining unit 5, as well as an appropriation for wage adjustments for substitute teacher pay.

SB2652, SD1 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 base rate of \$125 in Haw. Rev. Stat. §302A-624(e) was an interim rate set to provide relief to substitute teachers while pending litigation of *Garner v. DOE* and *Klitternick v. Hamamoto* is being resolved. In 2005, Judge Karen Ahn ruled in favor of the substitute teachers. The matter was appealed by the Attorney General and is pending before the Intermediate Court of Appeals. It is unclear when these cases will be resolved. In 2005, pursuant to Act 70 (SLH 2005), the Legislature provided an interim pay rate for substitute teachers of a minimum \$119.80 per day to provide temporary relief while the class actions lawsuits were being litigated. In 2006, pursuant to Act 263 (SLH 2006), the Legislature increased the interim pay rate by 5%, resulting in the existing minimum daily rate of \$125 for a substitute teacher.

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To: Chair Baker, Vice Chair Tsutsui and Members of the Senate Committee on Ways & Means
Fm: Paul Alston, Esq. and William M. Kaneko, Esq.
Re: Testimony of SB2652, SD1 Relating to Education
Hearing: 2/22/08 @ 11:00a.m., Rm. 211

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In 2007, while class II teachers received a 4% pay increase, the DOE refused to provide substitute teachers with a corresponding percentage increase, despite legislative intent in Act 263 to increase interim pay rate commensurate with regular teachers.

Hence, we strongly support SB2652, SD1 which would provide clear guidance to the DOE that substitute teacher pay be comparable to teachers in collective bargaining unit 5.

Two Suggested Amendments

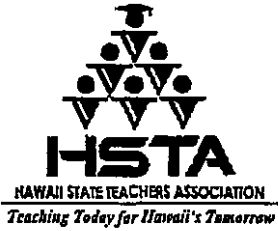
However, in light of the history and background of the current pay rate for substitute teachers and SB2652, SD1 we also recommend the following amendments:

- 1) **Clarification of Interim rates.** Because the going-forward rates increases are tied to interim rates set by the Legislature, appropriate language in the bill or committee report is needed. It should outline the intent of the Legislature to provide pay rate increases to the interim pay rates set by the Legislature until the courts will finally determine substitute teacher pay. The would be consistent with the Legislature's past measures in Act 70 (SLH 2005) and Act 263 (SLH 2006), 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).

- 2) **Clarifying language of DOE's recommendation for retroactive pay for 2007-08.** At the DOE's recommendation, a \$2.0 million appropriation for retroactive wages for FY2007-08 and pay rate increases for FY2008-09 was added in SD1. The existing language in SD1 is vague and unclear, however, that the \$2.0 million is to be used for those purposes, only referring to expenditure of funds for "wage adjustments". To be crystal clear about the use of these funds, we suggest that more specific language be used to reflect the Legislature's intent (and the DOE's desire) to remedy the 2007-08 retroactive wage issue, and for pay rate increases for 2008-09.

Thank you for the opportunity to testify on this matter. We STRONGLY SUPPORT (with amendments) SB2652, SD1.



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**TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS**

RE: SB 2652, SD1 – RELATING TO EDUCATION.

February 22, 2008

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

Chair Baker and Members of the Committee:

The Hawaii State Teachers Association supports SB 2652, SD1.

The Association believes substitute teachers play a vital role in our schools. This legislation adjusts substitute teachers' wages to make them comparable to the wage adjustments negotiated for teachers in Collective Bargaining Unit 5 in the most recent contract.

We urge the committee to pass this bill.

Thank you for the opportunity to testify.