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## A BILL FOR AN ACT

RELATING TO EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 37-41.5, Hawaii Revised Statutes, is  
2 repealed.

3           SECTION 2. Section 89-9, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5           "(d) [*Repeal and reenactment on July 1, 2010. L Sp 2008,*  
6 *c 5, §1.*] Excluded from the subjects of negotiations are  
7 matters of classification, reclassification, benefits of but not  
8 contributions to the Hawaii employer-union health benefits trust  
9 fund or a voluntary employees' beneficiary association trust;  
10 recruitment; examination; initial pricing; and retirement  
11 benefits except as provided in section 88-8(h). The employer  
12 and the exclusive representative shall not agree to any proposal  
13 that would be inconsistent with the merit principle [~~or~~], the  
14 principle of equal pay for equal work pursuant to section 76-1,  
15 performance based contracts for principals, or that would  
16 interfere with the rights and obligations of a public employer  
17 to:

18           (1) Direct employees;



- 1           (2) Determine qualifications, standards for work, and the  
2           nature and contents of examinations;
- 3           (3) Hire, promote, transfer, assign, and retain employees  
4           in positions;
- 5           (4) Suspend, demote, discharge, or take other disciplinary  
6           action against employees for proper cause;
- 7           (5) Relieve an employee from duties because of lack of  
8           work or other legitimate reason;
- 9           (6) Maintain efficiency and productivity, including  
10          maximizing the use of advanced technology, in  
11          government operations;
- 12          (7) Determine methods, means, and personnel by which the  
13          employer's operations are to be conducted; and
- 14          (8) Take such actions as may be necessary to carry out the  
15          missions of the employer in cases of emergencies.

16          ~~[This subsection shall not be used to invalidate provisions~~  
17 ~~of collective bargaining agreements in effect on and after June~~  
18 ~~30, 2007, and shall not preclude negotiations over the~~  
19 ~~procedures and criteria on promotions, transfers, assignments,~~  
20 ~~demotions, layoffs, suspensions, terminations, discharges, or~~  
21 ~~other disciplinary actions as a permissive subject of bargaining~~  
22 ~~during collective bargaining negotiations or negotiations over a~~



1 ~~memorandum of agreement, memorandum of understanding, or other~~  
2 ~~supplemental agreement.~~

3 ~~Violations of the procedures and criteria so negotiated may~~  
4 ~~be subject to the grievance procedure in the collective~~  
5 ~~bargaining agreement.] The employer and the exclusive~~

6 representative may negotiate procedures governing the promotion  
7 and transfer of employees to positions within a bargaining unit;  
8 the suspension, demotion, discharge, or other disciplinary  
9 actions taken against employees within the bargaining unit; and  
10 the layoff of employees within the bargaining unit. Violations  
11 of the procedures so negotiated may be subject to the grievance  
12 procedure in the collective bargaining agreement. Negotiations  
13 shall not preclude the authority of school community councils  
14 set forth in section 302-1124, Hawaii Revised Statutes."

15 SECTION 3. Section 302A-619, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§302A-619 Classification, educational officers.** The  
18 board shall classify all educational officer positions of the  
19 department and shall adopt two separate  
20 classification/compensation plans for educational officers. One  
21 classification/compensation plan shall be for principals and  
22 vice-principals and shall be [~~based on the general pattern of a~~



1 ~~school administrator's career development and associated school~~  
 2 ~~administrator's qualification requirements.]~~ performance based.  
 3 The board may consider the recommendations of the departmental  
 4 working group on performance contracts for principals. A  
 5 separate classification/compensation plan shall be for all other  
 6 educational officers and shall be reflective of the career  
 7 development pattern and qualification requirements for the  
 8 respective professional field of expertise; provided that both  
 9 classification/compensation plans shall include classification  
 10 appeals procedures."

11 SECTION 4. Section 302A-1124, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13 **"§302A-1124 Mandate to initiate school community councils.**

14 (a) The department, through the board and its superintendent,  
 15 shall establish a school community council system under which  
 16 each public school, excluding charter schools, shall create and  
 17 maintain a school community council. Each school community  
 18 council shall:

- 19 (1) Review and evaluate the school's academic plan and  
 20 financial plan, and either recommend revisions of the  
 21 plans to the principal, or recommend the plans for  
 22 approval by the complex area superintendent;



1 (2) Ensure that the school's academic and financial plans  
2 are consistent with the educational accountability  
3 system under section 302A-1004;

4 (3) Participate in principal selection and evaluation, and  
5 transmit any such evaluations to the complex area  
6 superintendent; and

7 (4) Provide collaborative opportunities for input and  
8 consultation.

9 The department may adopt administrative rules for the purpose of  
10 implementing this section, however, collective bargaining shall  
11 not be utilized to limit the powers of a school community  
12 council set forth in section 302A-1124(a).

13 (b) School community councils shall be exempt from the  
14 requirements of chapters 91 and 92. The school community  
15 councils shall:

16 (1) Make available the notices and agendas of public  
17 meetings:

18 (A) At a publicly accessible area in the school's  
19 administrative office so as to be available for  
20 review during regular business hours; and

21 (B) On the school's internet web site, and the  
22 department's internet web site,



1 not less than six calendar days prior to the public  
2 meeting, unless a waiver is granted by the  
3 superintendent in the case of an emergency; and

4 (2) Make available the minutes from public meetings on a  
5 timely basis in:

6 (A) The school's administrative office so as to be  
7 available for review during regular business  
8 hours; and

9 (B) On the school's internet web site, and the  
10 department's internet website.

11 The department shall maintain a comprehensive web site for  
12 school community council information including, but not limited  
13 to, council memberships, meeting dates, agendas, minutes,  
14 standardized forms that school community councils may elect to  
15 use, and training information.

16 (c) Complex area superintendents may require revisions to  
17 a school's academic and financial plans if the plans are in  
18 violation of law or conflict with statewide educational policies  
19 and standards, or are otherwise in the best interests of the  
20 school. Complex area superintendents shall take into  
21 consideration any recommended revisions to the plans made by a



1 school community council to the school principal pursuant to  
2 section 302A-1134(a)(1).

3 (d) The superintendent of education may recommend to the  
4 board of education dissolution of a school community council and  
5 establish an interim school community council if the school  
6 community council engages in any act or omission that would  
7 constitute gross negligence, wilful and wanton misconduct, or  
8 intentional misconduct. The superintendent may recommend to the  
9 board the removal of any member of a school community council  
10 if:

11 (1) The member has been found to have committed any act or  
12 omission that would constitute gross negligence,  
13 wilful and wanton misconduct, or intentional  
14 misconduct; and

15 (2) A majority of members of the school community council  
16 vote to have the member removed from the council.

17 The superintendent [~~shall appoint or~~] facilitate the creation of  
18 an interim school community council at any school that has not  
19 established a council or has had its council dissolved. In  
20 appointing or facilitating the creation of an interim school  
21 community council at any school that has had its council  
22 dissolved, the superintendent may appoint individuals who were



1 previously members of the council. The department and board  
2 shall adopt administrative rules to implement these procedures  
3 pursuant to chapter 91.

4 (e) Unless otherwise specified, each school community  
5 council shall establish policies governing the council's  
6 composition, election, staggered terms of office for members,  
7 operation, and vacancies; provided that:

8 (1) The number of school personnel [+]on[+] any school  
9 community council shall be [~~equal to~~] less than the  
10 number of primary stakeholders on the school community  
11 council;

12 (2) At the elementary and middle school levels, each  
13 school community council shall be composed of the  
14 principal and at least one member representing each of  
15 the following groups:

16 (A) Parents elected by ballots distributed among and  
17 collected from the parents of the school's  
18 students;

19 (B) Teachers elected by ballots distributed among and  
20 collected from teachers of the school;





- 1 (C) Noncertificated school personnel elected by
- 2 ballots distributed among and collected from
- 3 noncertificated personnel of the school;
- 4 (D) Community representatives elected by ballots
- 5 distributed among and collected from parents of
- 6 the school's students; and
- 7 (E) Student representatives selected by the student
- 8 council of the school; and
- 9 (3) At the high school level, each school community
- 10 council shall be composed of the principal and at
- 11 least one member representing each of the following
- 12 groups:
- 13 (A) Parents elected by ballots distributed among and
- 14 collected from parents of the school's students;
- 15 (B) Teachers elected by ballots distributed among and
- 16 collected from teachers of the school;
- 17 (C) Noncertificated school personnel elected by
- 18 ballots distributed among and collected from
- 19 noncertificated personnel of the school;
- 20 (D) Community representatives elected by ballots
- 21 distributed among and collected from the parents
- 22 of the school's students; and



1           (E) Student representatives selected by the student  
2                           council of the school.

3           For the purposes of this subsection, "primary stakeholders"  
4 means students, parents, and community members.

5           (f) School community councils shall elect officers,  
6 including:

7           (1) A chairperson;

8           (2) A vice-chairperson;

9           (3) A secretary; and

10          (4) Other officers as needed to perform stated duties in  
11                           support of the work of the council.

12          (g) The principal shall have the authority to set aside  
13 any decision made by the school community council if the  
14 principal determines it to be in the best interests of the  
15 school; provided that the principal notifies the school  
16 community council. If the school community council opposes a  
17 decision of the principal, an appeal shall first be brought to  
18 the complex area superintendent for resolution and, if  
19 necessary, to the superintendent and, finally, to the board of  
20 education. Decisions of a school community council, and  
21 requests for exceptions from collective bargaining agreements  
22 may not be set aside according to terms of a collective



1 bargaining contract or through a memorandum of understanding  
2 with a bargaining unit.

3 (h) Complex area superintendents shall assist the school  
4 community councils and principals within their respective  
5 complex areas in:

6 (1) Obtaining the support and services of the department;  
7 [~~and~~]

8 (2) Ensuring the progress and success of the school's  
9 academic and financial plan[~~-~~]; and

10 (3) Ensuring the effectiveness and involvement of the  
11 school community council."

12 SECTION 5. Section 302A-1301, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) Not less than [~~seventy~~] eighty per cent of  
15 appropriations for the total budget of the department, excluding  
16 debt service and capital improvement programs, shall be expended  
17 by principals. The board shall fully implement this section no  
18 later than July 1, 2009."

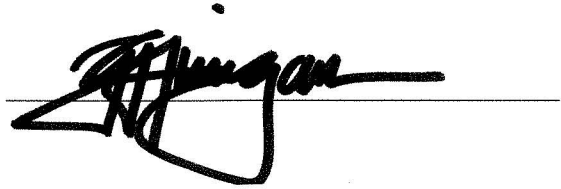
19 SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect upon its approval.  
22



H.B. NO. 1409

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "H. Hingan", is written over a horizontal line. The signature is stylized and cursive.

JAN 27 2009



**Report Title:**

Reinventing Education Act of 2004; school community councils;  
principal performance contracts; weighted student formula.

**Description:**

Clarifies the role of school community councils, and increases  
the amount of funding controlled by schools.

