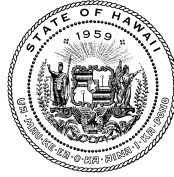


HB2376 HD3



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, March 8, 2010, 1:15 PM
State Capitol, Room 225

H.B. 2376 HD3 and H.B. 2377 HD3

Chair Sakamoto, Vice Chair Kidani, and members of the Committee:

H.B. 2376 HD3 proposes a constitutional amendment that would authorize the Governor to nominate and, by and with the advice and consent of the Senate, appoint the members of the Board of Education (Board), as provided by law.

The companion measure to this bill is H.B. 2377 HD3 which: 1) Reduces the Board to eight members representing various geographic areas; 2) Creates a Board of Education Selection Advisory Council to form a list of candidates from which Board members are to be nominated and appointed; and 3) Appoints the superintendent of education as the executive officer of the Board.

The Administration has **concerns** that these bills have the appearance of education reform, but merely make changes to the way in which Board of Education members are selected. For example, establishing a Selection Advisory Council to nominate candidates to the Board of Education would create another layer of bureaucracy to an already opaque governance system and move the State further away from increasing accountability for the condition of public schools.

There were many bills introduced this legislative session to change Hawaii's public education system. These measures were introduced primarily in response to the inability of State leaders under the existing school system to quickly and comprehensively resolve the issue of Furlough Fridays for public schools. The publicly-elected Board of Education, which is supposed to represent the will of Hawaii's citizens, is presently incapable of adequately responding to the public's clear and repeated request to restore school instructional days. Creating clear lines of authority will create

greater stability and allow for a more expedient execution of policies and procedures that govern the Department of Education.

The Administration recommends that the Committee **amend** these measures by adopting the approach and language contained in the Administration-sponsored bills, S.B. 2705 and 2706 (attached).

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.

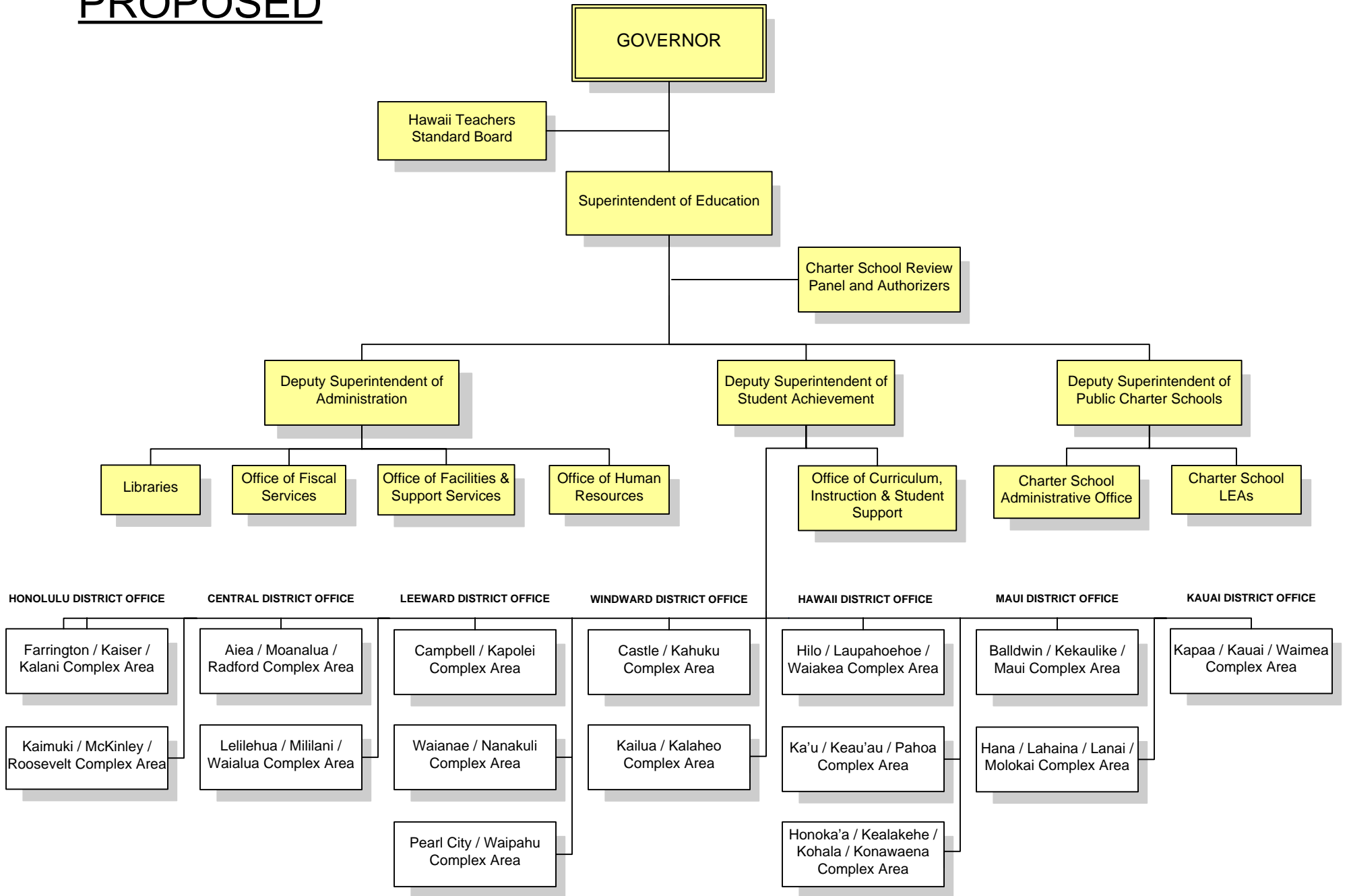
The second bill, S.B. 2705, makes the statutory amendments necessary to effectuate the new governance system proposed in S.B. 2706. The bill's key provisions are:

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.

Therefore, we strongly urge the committee to adopt the language in S.B. 2705 and 2706, in lieu of the provisions in the bills being heard today. A proposed organizational chart for the Department of Education and suggested bill language are attached for the Committee's review. Thank you for the opportunity to provide testimony on these measures.

PROPOSED



Date of Hearing: Monday, March 8, 2010

Committee: Senate Committee on Education and
Housing

Person Testifying: Garrett Toguchi, Chairperson, Board of Education

Title of Bill: H.B. No. 2376, H.D. 3, Proposing Amendments to the Hawaii
Constitution Relating to the Board of Education

Purpose of Bill: Proposes an amendment to Article X, Section 2, of the Hawaii State
Constitution to allow the Governor to nominate and, by and with the
advice and consent of the Senate, appoint the members of the
Board of Education, as provided by law.

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 H.B. No. 2376, H.D. 3.

The Board of Education (Board) opposes H.B. No. 2376, H.D. 3,
which proposes a constitutional amendment to allow the Governor
to nominate and, by and with the advice and consent of the Senate,
appoint the members of the Board of Education, as provided by
law.

Under this bill, Hawaii's elected Board of Education, *determined by
the voters* of our State, would be replaced with an appointed board,
determined by the Governor.

A Governor-appointed board would centralize educational decision-making too largely in the Executive Branch. Under H.B. No. 2376, H.D. 3, educational decision-making would be weighted heavily under the Governor, with Board members falling under the Governor's direction and appointment. Under such a governance structure, a Board member would have but one constituent: the Governor who appoints the Board member to office.

An appointed board would be partisan in nature, subject to the political affiliation of the governor at that particular time. An appointed board 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. An appointed board is inclined to be in lock-step with the governor. For example, an appointed board under Governor Lingle would likely have furloughed teachers and other employees 36 days each year under the Governor's initial proposal.

Unlike an 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.

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 and candidate 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 direct 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 on their Board of

Education. Voters also have the ability to elect Board of Education members out of office.

Changing the Board of Education from an elected board to an appointed board is no panacea for the challenges facing education in our State. There is no evidence that a shift to an appointed 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 an appointed 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.



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TESTIMONY BEFORE THE SENATE COMMITTEE ON
EDUCATION AND HOUSING

RE: HB 2376, HD3 – PROPOSING AMENDMENTS TO THE HAWAII
CONSTITUTION RELATING TO THE BOARD OF EDUCATION.

March 8, 2010

WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Sakamoto and Members of the Committee:

The Hawaii State Teachers Association opposes HB 2376, HD3. Instead we support representative democracy as manifested through an elected board.

We believe an elected Board of Education because is more likely to represent the views of the voters rather than the interest of the governor who appoints them.

Elected board members are accountable to the community, rather than an individual, the governor who has a political as well as a policy agenda. In the case of an elected board, the electorate has an opportunity to hear the candidates' positions and judge how each one stands on education-related issues. This arrangement gives voters the ability to support education policies by voting for members according to the policy platform set forth by candidates in their campaigns. Voters are more engaged when they know the candidates and their policy positions and can question them about those positions.

Under a system in which offices are appointed, voters are not given an opportunity to directly question the people who will be making decisions that affect them. It is voter-board member interaction generates interest in and ownership of our school system. An appointed board would disenfranchise the parents and other community members who are active in the development of the school system.

Some say there should be an appointed school board because voters do not know the candidates, which results in poor voter turnout. The solution, however, is not to do away with an elected board but to find ways to more effectively engage voters and increase citizen participation in the election process. If the voter turnout in our election for legislature and governor decreases, do we do away with an elected legislature and elected governor, or do we find ways to get our citizenry engaged in the democratic process?

We believe the best solution would be to elect board members based on voter districts, the same way House and Senate members are elected. In an arrangement in which communities elect their own board members, there will be closer ties between the voters and those who manage their education system. Board members will know the communities and its schools and the voters will know them.

Currently, board members run from a “district” but are actually elected by the entire county. This is the worst possible arrangement because voters do not know the candidates for the board. And board members have no community connection to those whom they represent. In a public opinion survey taken in 2008, 63 percent of those polled favored an elected school board. They also said that they prefer to elect board members who live closer to them.

We urge this committee to hold HB 2376, HD3,

Thank you for the opportunity to testify.



Monday, March 8, 2010
1:15 p.m.
Conference Room 225

TESTIMONY TO
THE SENATE COMMITTEE ON EDUCATION AND HOUSING

RE: HB 2376, HD3– Proposing amendments to the Hawaii Constitution
relating to the Board of Education

Chair Sakamoto, Vice Chair Kidani, and Members of the Committee:

My name is Robert Witt and I am executive director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 students statewide.

The Association is in strong support of House Bill 2376 HD3, which amends Article X, Sections 2 and 3, of the Hawaii Constitution to provide for the Board of Education to be appointed by the Governor, as provided by law.

HAIS is encouraged by this proposal by which the members of the Board of Education would be nominated and, by and with the advice of the Senate, appointed by the Governor, as provided by law.

HAIS believes that discussion of the merits of this measure is urgently needed during the 2010 Legislative Session, and further believes that this measure may be aptly designed, in general, to increase accountability concerning public education in Hawaii.

We believe this measure will also encourage the Board of Education to restructure and decentralize public education for the purposes of increasing student achievement and protecting student rights. This provides added incentive for our association to support ongoing discussion of this measure in the weeks ahead.

Thank you for the opportunity to testify in strong support of this measure. As this measure moves forward for continuing discussion, we pledge our involvement in the discussion of the merits of this idea, along with a full examination of the details that may be needed to support implementation should the measure be placed before the voters next November.



Hawai'i's Children First

Transforming Public Education

Monday, March 8, 2010
1:15 p.m.
Conference Room 225

TESTIMONY TO
THE SENATE COMMITTEE ON EDUCATION AND HOUSING

RE: HB 2376 (HD3) – Proposing Amendments To The Hawai'i Constitution
Relating To The Board Of Education

Dear Chair Sakamoto, Vice-Chair Kidani and Members of the Committee:

Hawai'i's Children First is strongly supportive of the intent of HB 2376 and HB 2377. In light of a strong current of public sentiment calling for reform, we respectfully request that the community be given the opportunity to vote on a system that appoints the Board of Education.

The Department of Education (DOE) has outlined an ambitious reform agenda in connection with the federal "Race to the Top" program. The reforms include:

- Revisiting union contracts to revise performance evaluation, tenure, and other complex and sensitive subjects;
- Developing a comprehensive student support system;
- Instituting a data system that aligns with Common Core Standards and tracks student growth and achievement;
- Implementing measures to close the achievement gap and turnaround troubled schools, such as through zones of school innovation; and
- Ensuring equitable school funding, including for charter schools.

The DOE also has plans to revamp its outdated human resource system and the associated processes affecting its tens of thousands of employees.

The above-mentioned reforms will take much knowledge and expertise, a firm commitment and a number of years to implement. Given the size and scope of the proposed reforms, our public education system needs improved governance to help lead and oversee that change.

A system of appointing board members will help to contribute to the reform effort. With a system that appoints board members, we can expect:

- Greater accountability – the governor becomes accountable for the state of public schools;
- Increased attention by the Executive Branch on education and a clear incentive for the governor to take more ownership in the system due to the governor’s role in selecting Board of Education members;
- Better screening of candidates – a process that helps to ensure the selection of the most highly qualified individuals, such as individuals exhibiting good judgment and expertise in education policy, school leadership, teaching and other relevant subject areas, such as business;
- A more cohesive Board of Education that is less subject to electoral politics and special interests; and
- Improved structural alignment that will be more conducive to reform.

A governance system with an appointed state board is well-tested. Most state boards (35) are appointed. Based on our analysis of the governance structures of other states and NAEP scores, eight of the top ten state boards in terms of NAEP achievement are appointed. On balance, states with appointed boards have performed better in terms of achievement.

Some seek to prevent HB 2376 & HB 2377 from advancing. They argue for the status quo at a time when the community is calling for improvements to public education.

These opponents of change argue that electing board members makes the board members more accountable to the electorate. A Star-Bulletin/KITV 4

News poll in 2002 indicated that 69% of those polled did not have enough information about candidates to make a good choice. In the last 2008 at-large election, the “blank votes” were significant. It is common knowledge that many people vote based on name recognition or simply because a candidate may have a similar background, instead of voting based on the candidates’ views and qualifications.

They argue that a system of electing candidates is better for the community. Not every government service should be led by persons elected for office. When it comes to education, the focus should be on getting the most qualified Board of Education members, not the most popular. Positions for judges, executive cabinet members, advisory commissions and the Board of Regents for the University of Hawai‘i are examples of appointed positions.

They argue that appointing board members would make public education more political. No governance system is more political than a system that selects its members by popular election. With the election of Board of Education members traditionally being accompanied by weak voter participation, the composition and operation of the Board of Education is especially susceptible to entrenched interests.

We have high hopes that the future of public education in Hawai‘i will place the needs of children first. Implementing an appointed board of education is an important step on the road to re-focusing our priorities and instituting many other important reforms. Thus, we strongly urge the Committee to pass HB 2376 and HB 2377.

Thank you for your commitment to public education and your time and consideration on this important issue.

**IN SUPPORT OF HOUSE BILL 2376 TO CHANGE THE
BOARD OF EDUCATION FROM AN ELECTED BOARD
TO AN APPOINTED BOARD**

Committee on Education and Housing

Date: March 8, 2010 Time: 1:15 p.m. Room: 225

Testimony of: Bill Reeves

I would like to voice my support for the House Bill 2376 which amends the Hawaii Constitution to provide for a Board of Education whose members are "to be appointed by the Governor, as provided by law". Effective July 1, 2020. (HB2376 HD3)

In Hawaii our Board of Education is tasked with the following roles:

“to set education policies for the public school system, adopt student performance standards and the means to assess them, and monitor school success in order to enable all public school students to acquire the knowledge, skills, respect for learning and attributes necessary for life-long learning and productive and responsible citizenship, and to set policies and standards for the public library system and monitor progress toward their attainment in order to enable the public libraries to provide all people with the products and services necessary for literacy and life-long learning.” but as most of you know all too well, the Legislature know all too well that they have been increasingly forced to become more involved in the workings of the Board of Education”

Virtually no one involved in Hawaii’s public school system would argue with these goals and yet our current governance system is woefully stacked against their attainment.

First and foremost, any change in the governance structure of the Board of Education needs to ultimately lead to better student outcomes – it most certainly must not simply be a political exercise. With that in mind I feel that the HB2376 will indeed greatly help increase student achievement in the three key ways:

1) It will attract a far broader universe of candidates to serve on the Board

Despite being responsible for the oversight of between 1/3 and 1/2 of the Hawaii state budget, Board of Education members are paid virtually nothing for their service. While this would not normally be an issue were the group to function as most other pro-bono policy boards do, the fact that the BOE has traditionally tended to dramatically micro manage the Department of Education far in excess of its constitutional mandate has meant that service on the Board is effectively a full time job. This tendency to micro manage is further reinforced by the fact that what little Board members are paid is based upon the number of meetings they attend.

Needless to say, there is an extremely small universe of candidates available for full time jobs that pay virtually nothing. Add to this the fact that to serve on the BOE one must first undergo all of the trials and tribulations of the electoral process and that universe narrows further still. Naturally, elected Board members are also far more susceptible to the influence of various special interest groups.

We are an Island state. If we are going to succeed in transforming Hawaii's public school system into one that permits our graduates to compete with other world-class systems we need to attract the largest pool of highly qualified applicants to the Board of Education as possible. These candidates must come to the position with a singular goal – that being the improvement of student outcomes. It is my view that an appointed Board of Education, functioning as true policy board, will attract a far greater and more diverse pool of these highly qualified applicants.

2) It will serve to refocus the Board of Education on its constitutional role of setting long-term systemic achievement goals for the Department of Education and the Superintendent and monitoring progress towards those goals

While Hawaii has a long and proud history of both valuing and prioritizing public education, in recent years our public educational governance structure has become gridlocked at the Board level. This gridlock has many historic sources that are independent of the individuals who currently serve.

The fact that the BOE Chair is elected annually from among its members has often led to bitter internal politics that carry forward for the remainder of the session rendering the Board highly ineffective. A split Board is often a weak Board. Crippling internal politics has contributed to an atmosphere in which narrow personal biases toward specific issues or each other often seem to supercede members' responsibility to advocate first and foremost on behalf of Hawaii's public school parents and students. Teacher furloughs are but the latest example of this dynamic.

With the body responsible for setting long term educational goals effectively removing itself from the governance structure, our Superintendent has been forced to grapple with attempting to steer an unknown and inconsistent policy course with little to no support from her ultimate employer.

In place of the leadership vacuum left by the BOE the Legislature itself, as most of you know all too well, has been forced to take an increasingly active role in the oversight of our public school system. This has necessitated Legislative involvement in virtually all aspects of the Department of Education. Notwithstanding the tremendous efforts on the part of many of our Representatives and Senators this must surely be the most inefficient means of setting our long term educational policy goals.

An appointed Board of Education, with an externally appointed Chairperson, is far less likely to be susceptible to the internal politics and influences that have removed the existing BOE from its role in the governance process thereby allowing its members to better place the interests of Hawaii's public school students and their parents above all other considerations.

3) It will align the BOE governance structure with the exciting reforms that are taking place throughout the public school system through the next DOE Strategic Plan and the federal Race To The Top initiative upon which it is to be based

While there is an increasing awareness of the Race To The Top initiative in which Hawaii is now competing, far fewer people appreciate the implications of that initiative or the fact that it is to become the "backbone" of the Department of Education's next Strategic Plan.

The unprecedented reforms currently being implemented at the school level will dramatically increase the ability of our teachers, principals, Complex Area Superintendents and Superintendent to quickly identify the best elements of what techniques are working in our classrooms so they can be replicated. They will also allow our teachers and principals to adjust and reinforce those aspects that are not working as well as they should be. To be effective these reforms will require nothing short of a complete change in the culture of the DOE. That change of culture is absolutely essential if we are to provide ALL of our public school students with the knowledge and skills they will need to thrive in the 21st century.

As anyone who has been a part of a large institution can appreciate, it is virtually impossible to alter an organization's culture without the driving vision and force of that change emanating from the top. It is as simple as this - if the reforms now being codified into the DOE's next Strategic Plan are to succeed Hawaii will need the Board of Education itself to lead the way. The time has come to realign our public education governance structure in a way that supports and reinforces the reforms already underway throughout the rest of the Department of Education.

I fully support HB 2376 as a means of realigning interests within our public school system, restoring the confidence of the public at large in that system and most importantly leading to the profound culture shift necessary to get Hawaii's public schools where we all know they need to be.

**SUPPORT OF HOUSE BILL 2376 and 2377
CHANGE THE BOARD OF EDUCATION FROM AN ELECTED BOARD TO AN
APPOINTED BOARD**

Dear Chair Sakamoto, Vice Chair Kidani, and Members of the Committee on Education and Housing;

HB 2376 and HB 2377 merit the support of the Senate Committee on Education and Housing. Although the changes described in these bills relate only to the governance structure of the Board of Education and not directly to improving the quality of education in Hawaii's public school classrooms, they will have an immediate positive impact more broadly on the public school system.

Support and passage of these bills will greatly help to re-establish trust in a system recently battered by negative stories as a result of the Furlough Friday crisis and help catalyze support for Hawaii's public schools by parents and voters alike.

Currently, the governance of Hawaii's public schools is diffuse with stakeholders having divergent interests. The governance changes proposed in these bills will align the office of the Governor with that of the Superintendent and the Board of Education increasing transparency and accountability.

The proposed mechanism for appointment will attract a broader pool of highly qualified applicants, will limit the influence of special interests on the process and should increase the likelihood that Board members cooperate and collaborate on policy leadership.

In my experience a smaller Board of Education, provided that it was representative of the diversity reflected among the public school system's many stakeholders, would be more likely able to reach consensus and more likely able to provide strong leadership than a larger Board would.

The members of Hawaii's Board of Education should be driven by one common goal – the improvement of student outcomes through the establishment of a culture of openness, advocacy and excellence. I feel that HB 2376 and 2377 go a long way toward achieving this end.

Thank you for your consideration,

Deborah Berger
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Honolulu, HI 96815