

SB2116



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

S.B. NO. 2116, RELATING TO INDEMNIFICATION OF COUNTY AGENCIES.

BEFORE THE:

SENATE COMMITTEES ON EDUCATION AND HOUSING AND ON
TRANSPORTATION, INTERNATIONAL, AND INTERGOVERNMENT

DATE: Monday, February 8, 2010 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Jerrold G.H. Yashiro, Deputy Attorney General

Chairs Sakamoto and English and Members of the Committees:

The Department of the Attorney General supports the intent of this bill and provides the following comments and suggestions.

The purpose, as stated in the bill, is to facilitate the process by which the Department of Education obtains approval for the State to indemnify, defend, and hold harmless a county agency and its officers, agents, and employees for public school purposes and functions on or in county facilities.

As drafted, it is unclear whether the language will achieve the stated purpose. While the Department of the Attorney General supports the intent to streamline the approval process for the Department of Education, streamlining the process must be balanced against ensuring that the State is not exposing itself to greater liability than necessary whenever it indemnifies a county agency and its officers, agents, and employees for use of county facilities.

Allowing the Governor the discretion to delegate the authority to the Superintendent or Deputy Superintendent for school functions or purposes using an indemnity provision

approved by the Governor will streamline the approval process while ensuring some balance over the breadth of the indemnification. In light of the above, we recommend that subsection (b), beginning on line 15 of page 2 through line 4 on page 3 be amended to read as follows:

“(b) Notwithstanding subsection (a), the governor may delegate to the superintendent of education or the deputy superintendent if so designated by the superintendent of education the authority to agree to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees when:

- (1) The use of the county property will be for a school purpose or a school function;
- (2) The governor approves, in writing, the indemnity provision to be used by the superintendent of education or the deputy superintendent if so designated by the superintendent which, upon approval, may to the extent permitted by the Governor, serve as approval under this paragraph for some or all public school purposes or functions on county properties for the remainder of that same school year; and
- (3) The comptroller, pursuant to section 41D-8.5, has obtained an insurance policy or policies in an amount sufficient to cover the liability of the State that reasonably may be anticipated to arise under the indemnity provision, or has determined that it is not in the best interest of the State to obtain insurance.”

We respectfully ask the Committees to pass this bill with the recommended amendments.

Date: 02/08/2010

Committee: Senate Education and Housing
Senate Transportation, International, and
Intergovernmental Affairs

Department: Education

Person Testifying: Kathryn Matayoshi, Interim Superintendent of Education

Title of Bill: SB 2116 RELATING TO INDEMNIFICATION OF COUNTY AGENCIES

Purpose of Bill: Facilitates the process by which the department of education obtains approval for the State to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees for public school purposes and functions on county facilities.

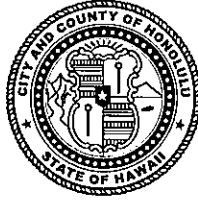
Department's Position: The Department of Education supports the intent of S.B. 2116 which would simplify and make consistent the process by which public schools are able to use county parks and other facilities for school purposes. There are a number of schools which were designed to use adjacent county parks for their playgrounds and other physical education facilities. A process that can ease the continued use of county property would be helpful to the schools.

Thank you for this opportunity to offer testimony.

DEPARTMENT OF THE CORPORATION COUNSEL
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



CARRIE K.S.OKINAGA
CORPORATION COUNSEL

DONNA M. WOO
FIRST DEPUTY CORPORATION COUNSEL

February 3, 2010

The Honorable Norman Sakamoto, Chair,
and Members of the Committee on
Education and Housing
The Senate
State Capitol
Honolulu, Hawaii 96813

The Honorable J. Kalani English, Chair,
and Members of the Committee on
Transportation, International and
Intergovernmental Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Sakamoto and English and Committee Members:

Subject: Senate Bill No. 2116
Relating to Indemnification of County Agencies

The City and County of Honolulu ("City") supports S.B. No. 2116 which seeks to facilitate the process by which the Department of Education obtains approval for the State to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees for public school purposes and functions on county facilities as provided by Act 152, SLH 2007.

The process currently used by State agencies to obtain the Governor's approval has been in place since 2007. Although the City has not had any insurmountable problems with the current process employed by the State, the City supports legislation to streamline the process. The City continues to work

The Honorable Norman Sakamoto, Chair,
and Members of the Committee on
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International and Intergovernmental Affairs

The Senate

SB2116

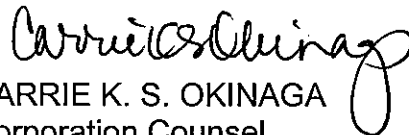
February 3, 2010

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with the State agencies, including the Department of Education, to facilitate the issuance of permits and agreements incorporating the indemnification provisions as approved by the Governor.

Thank you for the opportunity to provide our comments on this bill.

Very truly yours,



CARRIE K. S. OKINAGA
Corporation Counsel

CKSO:ey

10-00626/108765 (TESTIMONY)

sakamoto2 - Erin

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 05, 2010 11:44 AM
To: EDH Testimony
Cc: ekumabe@gmail.com
Subject: Testimony for SB2116 on 2/8/2010 1:15:00 PM

Testimony for EDH/TIA 2/8/2010 1:15:00 PM SB2116

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Elizabeth Maynard
Organization: Individual
Address: 45-179 Lilipuna Road #P Kaneohe, HI
Phone: 808-235-7513
E-mail: ekumabe@gmail.com
Submitted on: 2/5/2010

Comments:

Please support and pass SB2116 Relating To the Indemnification of County Agencies. This bill is important to ensure that our public school classes are able to fully utilize the county parks, botanical gardens, and nature preserve. The current permission process is tedious and burdens the classroom teachers and schools with restrictive guidelines. Only Hawaii's public schools have this limitation to use the county parks in efforts to expand the education opportunities of Hawaii's youth.

sakamoto2 - Erin

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 05, 2010 11:40 AM
To: EDH Testimony
Cc: annerosa7@gmail.com
Subject: Testimony for SB2116 on 2/8/2010 1:15:00 PM

Testimony for EDH/TIA 2/8/2010 1:15:00 PM SB2116

Conference room: 225
Testifier position: support
Testifier will be present: No
Submitted by: Anne Rosa
Organization: Individual
Address: 6973 Kalaniana'ole Hwy Honolulu, HI 96825
Phone: 808-220-9193
E-mail: annerosa7@gmail.com
Submitted on: 2/5/2010

Comments:
IN SUPPORT

Aloha,

Please support SB 2116 to streamline the process for Hawai'i's school children to use City and County parks and facilities.

The current process limits schools and is very time consuming and burdensome to classroom teachers and schools. This restriction has only been placed on Hawai'i's public schools. There are several schools were unable to participate in learning programs because of these limitations.

Thank you for your work to resolve this problem.
Anne Rosa