



AMENDED TESTIMONY

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TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
FINANCE

RE: SB 2124, SD2 – RELATING TO THE HAWAII HURRICANE RELIEF  
FUND.

Thursday, March 25, 2010

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Oshiro and Members of the Committee:

The Hawaii State Teachers Association supports SB 2124, SD 2, that makes an appropriation from the Hawaii Hurricane Relief Fund to restore all remaining lost instructional days for the 2009 – 2010 and the 2010 – 2011 school years that have been negotiated pursuant to the collective bargaining process established under Chapter 89, Hawaii Revised Statutes, with the understanding that a proportionate amount will be dedicated on a per-pupil basis to alleviate the impact of reductions in funding to charter schools for the 2009 – 2010 and 2010 – 2011 school years.

On March 23, 2010 the HSTA and the Board of Education announced a tentative supplemental agreement that if funded and implemented will accomplish the objective of this bill to restore all remaining instructional days now scheduled as furlough Fridays this year and next. The full text of the supplemental agreement is attached to this testimony. HSTA believes that SB 2124 provides the appropriate legislative vehicle for the legislature to (1) restore instructional days without destroying the DOE budget and (2) preserves collective bargaining rights under Chapter 89.

From November 2009, the HSTA had been meeting with the Board of Education to end the furloughs, which have impacted our students. The BOE and the HSTA agreed to a solution in December which was rejected by the governor. However, we did not give up hope of working out an agreement to restore furlough days. The parties believed that an agreement could be reached. The recently announced agreement restores instructional days as follows:

- For the remaining school year, four remaining furlough days will be eliminated through funding.

- For the 2010-11 school year, all furlough days will be eliminated. Eleven furlough days will be restored through funding and six non-instructional days are being converted to furlough days. This will result in a full school year for students without loss of instructional days.

In order for this bill to fully address the supplemental agreement it will need to be amended to match the negotiated provisions. Our staff has prepared a proposed House Draft 1 of this bill (attached to this testimony) that illustrates the changes needed to support the supplemental agreement. Including funding for charter schools, the proposed draft would provide for a total appropriation of \$95,420,000, including \$92,000,000 to fund the HSTA-BOE supplemental agreement and \$3,420,000 for charter schools. The amount for the supplemental agreement breaks down to \$24.5 million for the current school year and \$67.5 million for next school year. HSTA supports the provision for additional funding for charter schools. The amounts presented are based on Department of Education calculations of the costs to restore furlough days. HSTA understands that those amounts may be revised after careful scrutiny.

Although HSTA and Board of Education representatives briefed House and Senate leadership prior to announcement of the agreement, this is my first opportunity to present testimony to a legislative committee since the announcement, and I would like to take this opportunity to clarify certain matters that may have generated confusion:

- 1) Supplemental agreements are between the HSTA and the Board of Education pursuant to HRS 89-6(e).
- 2) Negotiations have been completed. Subject to teachers voting to approve the supplemental agreement on March 31, 2010, the agreement will be submitted by the Board of Education to the legislature for funding.
- 3) The Governor's role is to approve (or veto) appropriations bills and to release (or not) funds that may be appropriated. The HSTA will not re-negotiate the supplemental agreement with the Governor.
- 4) Both the HSTA and the BOE/DOE are very concerned that the approach to funding the supplemental agreement not be a matter of "robbing Peter to pay Paul." If the DOE budget is reduced in other areas to compensate for restoring instructional days, then the students still will be the losers. For this reason, the HSTA believes that utilizing money from the Hurricane Relief Fund is the approach that will enable funding without detracting from the DOE budget.

In summary, the supplemental agreement between HSTA and the Board of Education hinges on the legislature approving the funds and the governor releasing the funds allocated to eliminate furlough days affecting students. Teachers, as well as everyone in our community, want an end to furloughs, and we believe this bill will go a long way toward making that happen.

We urge this committee to pass this bill as a House Draft 1.

Thank you for the opportunity to testify.

Attachments

Note: This Supplemental Agreement is pending a review by the State Attorney General.

**SUPPLEMENTAL AGREEMENT  
BETWEEN THE  
HAWAII STATE TEACHERS ASSOCIATION  
AND THE  
DEPARTMENT OF EDUCATION AND BOARD OF EDUCATION  
(2009-2011 UNIT 5 FURLOUGHS)**

Pursuant to Hawaii Revised Statutes, Sections §89-2, §89-6 (e), and §89-10(a) this Supplemental Agreement is entered on this \_\_\_\_ day of March 2010, by and between the Hawaii State Teachers Association, hereinafter Union, and the State of Hawaii, Board of Education, and Department of Education, hereinafter Employer.

WHEREAS, in consideration of the State's economic condition for the fiscal biennium of 2009-2011, as well as, the budgetary restrictions imposed on the Employer by the Governor of the State of Hawaii, as well as, the reduction in funding by the State Legislature, the Union has agreed to enter into temporary labor cost saving measures; and

WHEREAS, on or about March \_\_, 2010, the Union and the Employer agreed to modify the Supplemental Agreement on furloughs entered on October 22, 2009, the terms of which are set forth below; and

WHEREAS, in recognition of the Union's voluntary actions, the Employer has agreed to maintaining and to guarantee specific terms and conditions of employment;

NOW THEREFORE, the parties agree to the following:

1. All terms and conditions of the unit 5 collective bargaining agreement in effect for the duration of July 1, 2009 through June 30, 2011 shall be maintained and shall continue in effect, except as otherwise provided herein.
2. All supplemental agreements, memorandum of agreements, memorandum of understandings, and settlements entered into by and between the Union and the Employer and pertaining to school years 2009-10 and 2010-11 shall be maintained and shall continue in effect for the period from July 1, 2009 to June 30, 2011.
3. From July 1, 2009 to June 30, 2011 all licensed, tenured employees in bargaining unit 5, including 10 and 12 month positions shall not be subject to layoffs, contracting out (or privatization), and the Employer may instead implement furloughs subject to the following terms and conditions:

- a. "Furlough" means the placement of an employee temporarily and involuntarily in a non-pay and non-duty status by the Employer because of lack of work or funds, or other non-disciplinary reasons.
- b. The Employer agrees that any furlough of an employee shall not cause or deem to cause:
  - (1) A break in the employee's employment;
  - (2) A decrease in the Employer's contribution to the Hawaii Employer-Union health benefit trust or Voluntary Employee Beneficiary Association (VEBA) trust;
  - (3) A change in the amount of vacation or sick leave earned by the employee;
  - (4) A decrease in the employee's time in service for purposes of employee pension, retirement, and deferred compensation plans; and
  - (5) Any change in any right, privilege, or benefit that the employee is entitled to or would have been entitled to by law but for the furlough.
- c. All 10 month employees shall be placed on furloughs for a total of 19 days over the 2009-2011 fiscal biennium. A total of 13 days shall be taken during the 2009-2010 fiscal year, effective October 1, 2009 through June 30, 2010, and six (6) days during the 2010 to 2011 fiscal year effective July 1, 2010 - June 30, 2011. The furlough days for fiscal year 2009-2010 and 2010-2011 shall be taken per the attached revised negotiated furlough calendars.
- d. All 12 month employees shall be placed on furloughs for a total of 27 days over the 2009-2011 fiscal biennium. A total of 17 days shall be taken during the 2009-2010 fiscal year, effective October 1, 2009 through June 30, 2010, and ten (10) days during the 2010 to 2011 fiscal year effective July 1, 2010 - June 30, 2011. The furlough days for fiscal year 2009-2010 and 2010-2011 shall be taken per the attached revised negotiated furlough calendars.
- e. The negotiated furlough calendars shall include the following adjustments:
  - 1. For SY2009-2010, the last workday of the year shall be converted to an instructional day, with students attending a half day and teachers working a full day.

2. For SY2010-2011, six (6) furlough days shall be scheduled as follows:
    - a) Two (2) non-instructional days at the beginning of the school year (one teacher-directed and one administration-directed);
    - b) One day reserved for Teacher Institute Day; and
    - c) Three (3) Waiver Day/ Planning/ Collaboration Days selected and scheduled by the Department.
  - f. Employee's pay will be automatically adjusted each pay period to account for directed furlough day(s).
  - g. All furlough days taken by Unit 5 employees shall be accounted for by June 15, 2011, and a copy of a report of the furlough days taken shall be provided to the Union on July 30, 2011.
  - h. Full-time employee's pay will be automatically adjusted by one work day for each furlough day. Part-time employee's pay will be automatically adjusted in accordance with the appropriate percentage of full-time equivalency.
  - i. Employees shall not be permitted to substitute vacation, sick, compensatory time-off, or any paid leave for the furlough day(s).
4. To compensate for Teacher Institute Day being converted to a Furlough Day, the Employer agrees that the Union may hold Stop Work Information Meetings (SWIMs) two (2) times during the 2010-2011 school year (one meeting each semester) to be conducted by its duly recognized officers, staff and/or head faculty representatives and which shall be open to all employees in the bargaining unit. Such meetings shall be held during working hours, and the Employer or his duly designated representatives shall permit its employees to attend such meetings during the last one hour and 45 minutes of the teacher's workday, within a designated week. The Employer may utilize rotating schedules of a short day or other means to minimize disruption or loss of student instructional time. The Union shall give written notice to the Employer at least forty-five (45) days prior to the date of the meetings, and the Employer shall approve the date for the meetings provided that they do not unduly interfere with normal school operations. These meetings may include multiple sessions in order to accommodate employees in the bargaining unit. The Employer shall provide meeting sites as available.

5. For SY2010-2011, Article VI, Section X.2, 2<sup>nd</sup> paragraph shall be placed in abeyance. Principals shall not be allowed to utilize teacher preparation periods for any purpose, such as in-service training, school program planning and assessment or to attend principal-teacher conferences.
6. This Supplemental Agreement is contingent upon the Employer reaching corresponding agreements with all unions representing DOE employees, and shall be null and void if such agreements are not reached.
7. The terms of this Supplemental Agreement are contingent upon the Legislature appropriating and the Governor approving and releasing (as applicable) approximately \$92 million dollars to reduce the number of furlough days for school years 2009-2010 and 2010-2011. Should all or a portion of the funding for fringe benefits be paid by the State, such amount will be deducted from the approximate 92 million dollars, and appropriate adjustments will be made to the figures in sub-paragraphs a. and b. below.
  - a. In the event that funding (approximately \$24.5 million) for the remainder of the 2009-2010 school year is not appropriated, approved, and released by April 21, 2010, the parties agree that the furlough days originally scheduled for April 23, April 30, May 7, and May 14 shall continue as previously agreed under the October 22, 2009 furlough agreement.
  - b. In the event that funding (approximately \$67.5 million) for the 2010-2011 school year is not appropriated, approved and released by July 8, 2010, the parties agree that the furlough days originally agreed on under the October 22, 2009 supplemental furlough agreement will be implemented according to the negotiated calendar agreed on by the parties and published by the Employer.
  - c. Should funding be appropriated, approved, and released for only the 2010-2011 school year, all terms applicable to the 2010-2011 school year under this Supplemental Agreement shall be fully implemented.
8. The parties acknowledge that there is the potential for further budget reductions and/or reduced revenue that could result in the need for the employer to implement further cost saving measures subject, when appropriate, to

collective bargaining. If the enacted Department of Education budget (approved by the Legislature and signed by the Governor) for the school year 2010-2011 results in reductions greater than those submitted by the Board of Education to the legislature on or about March 22, 2010, the Employer reserves the right to declare this agreement null and void. The Employer shall notify the Union of its decision to declare this agreement null and void no later than July 8, 2010, otherwise the agreement shall be implemented as provided herein.

9. This Supplemental Agreement shall expire on June 30, 2011, at and after which time the current Unit 5 Collective Bargaining Agreement in effect for the duration of July 1, 2009 to June 30, 2011, shall be the controlling agreement.

IN WITNESS WHEREOF, the parties hereto, by their authorized representatives, have executed this Supplemental Agreement this \_\_\_\_\_ day of March, 2010.

/S/ Garret Toguchi  
BOARD OF EDUCATION  
Its Chairperson

/S/ Wil Okabe  
HAWAII STATE TEACHERS  
ASSOCIATION  
Its President

/S/ Kathryn Matayoshi  
DEPARTMENT OF EDUCATION  
Its Superintendent

/S/ Jim Williams  
Its Executive Director &  
Chief Negotiator

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## A BILL FOR AN ACT

RELATING TO THE HAWAII HURRICANE RELIEF FUND.

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

SECTION 1. The legislature finds that reductions and restrictions to the department of education's operating budget of over \$49,000,000 for the 2009-2010 fiscal year and over \$226,000,000 for the 2010-2011 fiscal year have resulted in the scheduled loss of seventeen instructional days for ten-month non-charter public school students and twenty-one instructional days for twelve-month non-charter public school students during the 2009-2010 school year and the same number of lost instructional days during the 2010-2011 school year. Charter schools also sustained a reduction of \$3,791,952 and responded through the use of facilities funds, reductions in services, and staff reductions. The legislature further finds that if nothing is done to prevent the loss of these instructional days, Hawaii will become the state with the fewest number of instructional days in a school year. The State has



received much criticism for responding to budget shortfalls in a manner that decreases learning opportunities and quality instructional time for students. On a national level, the United States Secretary of Education has strongly criticized the decision to decrease instructional days, especially because Hawaii is scheduled to receive approximately \$500,000,000 from the federal American Recovery and Reinvestment Act, part of which is intended to avoid significant cuts to education and advance school reform. The Secretary has also indicated that the loss of instructional days has weakened the State's competitiveness for additional federal education grants. For these reasons, the legislature finds that the loss of instructional days for Hawaii's public school students is a short-sighted solution that will have detrimental long-term effects on Hawaii's public school students, reputation, and future.

Despite the great need for additional resources in many areas that would benefit the public, the legislature finds that providing a quality education for Hawaii's public school students is an overriding state priority with far-reaching effects on the prosperity, health, and growth of local communities and that ensuring adequate resources for education reflects a commitment and investment in that

priority. The legislature finds that an appropriation of Hawaii hurricane relief funds is necessary to maintain an essential level of programs and resources to provide Hawaii's public school students with a quality education.

The legislature declares that the appropriation made under this Act shall not be construed to mean that the legislature, in any way, intends to interfere with the processes of public sector collective bargaining as authorized under the state constitution and chapter 89, Hawaii Revised Statutes. The legislature finds that the tentative supplemental agreement negotiated by the Board of Education and the Hawaii State Teachers Association and announced on March 23, 2010 meets the objectives of the legislature in restoring instructional days lost due to furloughs.

The purpose of this Act is to appropriate a total of \$95,420,000 in Hawaii hurricane relief funds to restore all remaining lost instructional days for the 2009-2010 and 2010-2011 school years that have been negotiated pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes, and of the \$95,420,000, a proportionate amount on a per-pupil basis to alleviate the impact of reductions to charter schools for the 2009-2010 and 2010-2011 school years.

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SECTION 2. Notwithstanding provisions of chapter 431P, Hawaii Revised Statutes, to the contrary, there is appropriated out of the Hawaii hurricane relief fund the sum of \$25,460,000 or so much thereof as may be necessary for fiscal year 2009-2010 to restore all remaining lost instructional days for the 2009-2010 school year that have been negotiated pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes; provided that:

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- (1) The funds appropriated by this Act shall only be released upon the completion of all negotiations of parties necessary to execute the restoration of instructional days pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes;
- (2) Of the sum appropriated, \$960,000 shall be allocated to charter schools for the 2009-2010 school year to alleviate the impact of funding reductions for the 2009-2010 fiscal year;
- (3) Of the sum appropriated, \$24,500,000 shall be allocated to non-charter schools for the 2009-2010 school year to alleviate the impact of funding reductions for the 2009-2010 fiscal year;

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(4) As part of the collective bargaining agreement with the State, the exclusive representative for bargaining unit (5) shall agree to relinquish at least one non-instructional day once the lost instructional days are restored with moneys appropriated under this Act; and

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(5) Funds appropriated for the 2009-2010 school year that are not expended at the close of that school year shall not be carried over to the following school year and shall lapse into the Hawaii hurricane relief fund.

The sum appropriated under this section shall be expended by the department of education and the charter school administrative office, respectively, for the purposes of this Act.

SECTION 3. Notwithstanding provisions of chapter 431P, Hawaii Revised Statutes, to the contrary, there is appropriated out of the Hawaii hurricane relief fund the sum of \$70,140,000 or so much thereof as may be necessary for fiscal year 2010-2011 to restore all remaining lost instructional days for the 2010-2011 school year that have been negotiated pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes; provided that:

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- (1) The funds appropriated by this Act shall only be released upon the completion of all negotiations of parties necessary to execute the restoration of instructional days pursuant to the collective bargaining process established under chapter 89, Hawaii Revised Statutes;
- (2) Of the sum appropriated, \$2,640,000 shall be allocated to charter schools for the 2010-2011 school year to alleviate the impact of funding reductions for the 2010-2011 fiscal year;
- (3) Of the sum appropriated, \$67,500,000 shall be allocated to non-charter schools for the 2010-2011 school year to alleviate the impact of funding reductions for the 2010-2011 fiscal year;
- (4) As part of the collective bargaining agreement with the State, the exclusive representative for bargaining unit (5) shall agree to relinquish at least six non-instructional days once the lost instructional days are restored with moneys appropriated under this Act; and
- (5) Funds appropriated for the 2010-2011 school year that are not expended at the close of that school year shall not be carried over to the following

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school year and shall lapse into the Hawaii  
hurricane relief fund.

The sum appropriated under this section shall be  
expended by the department of education and the charter  
school administrative office, respectively, for the  
purposes of this Act.

SECTION 4. This Act shall take effect upon its  
approval; provided that section 3 shall take effect on July  
1, 2010.

**Report Title:**

Restoration of Instructional Days; Hawaii Hurricane Relief Fund; Appropriation

**Description:**

Makes an appropriation from the Hawaii hurricane relief fund to restore the remaining public school instructional days for the 2009-2010 and 2010-2011 school years; provided that the moneys shall only be released upon completion of negotiations of parties necessary to execute the restoration of instructional days. Allocates a proportionate amount of the appropriation to charter schools. Requires unexpended funds from each school year to lapse to the Hawaii hurricane relief fund. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*