



LATE

HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813

Committee: Committee on Judiciary
Bill Number: S.B. 340
Hearing Date/Time: February 21, 2019, 9:00 a.m.
Re: Testimony of the Hawai‘i State Ethics Commission with
COMMENTS ON S.B. 340, Relating to the Board of Education

Dear Chair Rhoads and Committee Members:

The Hawai‘i State Ethics Commission (“Commission”) offers the following comments on S.B. 340, which would add a non-voting member of Bargaining Unit 5 (“BU 5”) to the Board of Education (“BOE”).

The Committee may wish to consider how the State Ethics Code’s Conflicts of Interests law, Hawai‘i Revised Statutes (“HRS”) § 84-14, would apply to this new member of the BOE. With this in mind, this Committee may wish to provide additional clarification so that the Commission can enforce the Ethics Code as the Legislature intends.

Members of the BOE (and public-school teachers) are considered “employees” for purposes of the State Ethics Code and are subject to the Ethics Code’s restrictions. The Conflicts of Interests law, HRS § 84-14(a), reads in pertinent part:

§84-14 Conflicts of interests. (a) No employee shall take any official action directly affecting:

- (1) A business or other undertaking in which the employee has a substantial financial interest. . . .

The term “official action” is defined to include any action or inaction that involves the use of discretionary authority, HRS § 84-3, and the term “financial interest” is defined as including the employment interests of the employee. Therefore, the proposed new BU5 member of the BOE may not only have to refrain from voting on items affecting BU5 members’ compensation and benefits; the member may also have to recuse her- or himself from participating in any BOE discussion of compensation/benefits for BU5 members.

HRS § 84-14(a) also contains an exception for members of boards and commissions who are required to have certain specialized qualifications:

A person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which the person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

Thus, for example, if a board is mandated to have a member who represents an industry, that person may take action affecting that industry; however, that member is still prohibited from taking action affecting her or his particular employer within the industry. This exception may be difficult to apply when all public-school teachers – including the proposed BU5 member of the BOE – are employed by the same employer (the Department of Education). In other words, the BU5 member of the BOE may still be required to recuse her- or himself from certain discussions within the BOE.

The House Committee on Judiciary has amended the companion version of this bill (H.B. 615 HD 1) to make clear that this new BOE member would be subject to the Conflicts of Interests law (HRS § 84-14); the Ethics Commission supports this approach (and, similarly, the Ethics Commission would not support any exemptions from HRS § 84-14(a) for this new BOE member). Regardless, this Committee may wish to provide some additional guidance regarding the potential conflicts of interests that the new BOE member may face, to assist the Commission in carrying out the Legislature's intent.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 340.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

SB-340

Submitted on: 2/16/2019 4:09:25 PM

Testimony for JDC on 2/21/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of SB 340.

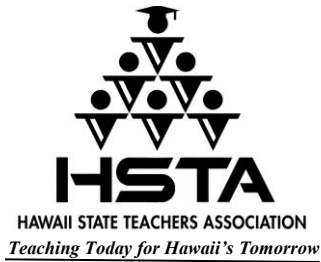
Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii



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Vice President

Logan Okita
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Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY

RE: SB 340 - RELATING TO THE BOARD OF EDUCATION

THURSDAY, FEBRUARY 21, 2019

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Rhoads and Members of the Committee:

The Hawaii State Teachers Association **strongly supports SB 340**, relating to the Board of Education.

Teacher voice matters. Too often, educational governance decisions are made without the input of the Hawai'i's hardworking teachers, who are responsible for crafting our children's future. Yet, teachers are expected to carry out these decisions, each day, without fail and without being paid the professional salaries earned by their mainland peers.

Already, the Board of Education has nonvoting members representing the military community and the student community. Both members—currently Col. Peter Santa Ana from as the board's military liaison as well as David Texeria, a senior from Kauai High School, as the board's student representative—provide valuable insight into the experience of their constituencies with the public school system. Teachers, too, should be heard on matters ranging from curriculum development to testing to school funding. Policymakers often talk about improving learning conditions at the “classroom level.” No one is better equipped to discuss those conditions than the teachers who are tasked with managing the classroom experience.

To empower teacher voice in educational leadership, the Hawaii State Teachers Association asks your committee to **support** this bill.

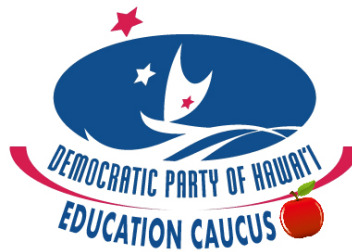
SB-340

Submitted on: 2/19/2019 9:56:39 PM

Testimony for JDC on 2/21/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



LATE

SENATE BILL 340, RELATING TO THE BOARD OF EDUCATION

FEBRUARY 21, 2019 · SENATE WAYS AND MEANS
COMMITTEE · CHAIR SEN. DONOVAN DELA CRUZ

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports SB 340, relating to the Board of Education, which amends the Board of Education membership by inviting the exclusive representative for bargaining unit (5) (teachers and other personnel of the Department of Education) to appoint a nonvoting public school teacher representative to the Board.

Empowered teachers are excellent educators. Yet, too often, teachers are omitted from educational policymaking. When teachers' voices are silenced, the views of the hardworking educators charged with shaping our children's minds and leading Hawai'i's classrooms are absent from discussions about how policy decisions impact classroom learning.

Already, the BOE hosts a military liaison and a student representative, both of whom are nonvoting members who wield considerable influence in board debates. They are critical thinkers, quick to question departmental initiatives that undermine student achievement and steadfast in their support of better schools. Likewise, teachers should have the opportunity to have a representative articulate their views on, for example, student assessment or school funding, since they are ultimately responsible for directly implementing the board's decisions and know best what's needed to strengthen their classroom experiences and inspire their children to succeed.



LATE

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COMMITTEE ON JUDICIARY

Thursday, February 21, 2019, 9:00 am, Conference Room 016
SB 340, RELATING TO THE BOARD OF EDUCATION

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Rhodes, Vice-Chair Wakai, and Committee Members:

The League of Women Voters of Hawaii strongly opposes SB 340 that would amend the Board of Education membership by inviting the exclusive representative for bargaining unit 5 (teachers and other personnel of the Department of Education) to appoint a nonvoting public-school teacher representative to the Board.

This measure would create an inherent conflict of interest between the Board of Education and the (HSTA), since the Board oversees labor negotiations with bargaining unit 5. Unfortunately, this conflict would exist even if the bargaining unit member were a nonvoting (but perhaps influential) member.

Another potential conflict concerns setting teacher standards. The Hawaii Teachers Standards Board (HTSB) was formed through the enactment of HRS 302A-801 in 2001 to provide impartial advice to the Department of Education and the Board of Education for decision-making on the critically important process of creating high standards to produce top-drawer public-school teachers within the Department of Education. A bargaining unit appointee to the Board of Education should not take part in such standard-setting.

Further, we believe it would take an amendment to Article X, Section 2 of our Constitution to make the change proposed in this measure. Why would voters endorse having the HSTA appoint someone to the Board? The voters of Hawaii passed a Constitutional amendment in 2010, allowing the Governor to appoint members of the Board of Education with the advice and consent of the senate.

Thank you for the opportunity to submit testimony.

SB-340

Submitted on: 2/16/2019 11:56:13 PM

Testimony for JDC on 2/21/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments:

I support SB340.

Mike Golojuch, Sr. Member, Education Caucus, Democratic Party of Hawaii

LATE

SB-340

Submitted on: 2/20/2019 1:35:34 PM

Testimony for JDC on 2/21/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments: