



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/17/2021

Time: 03:10 PM

Location: CR 229 & Videoconference

Committee: Senate Education

Senate Labor, Culture and the Arts

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 0810 RELATING TO COLLECTIVE BARGAINING.

Purpose of Bill: Eliminates the superintendent of education as a voting member constituting the public employer for the purpose of negotiating a collective bargaining agreement with personnel of the department of education. Reduces the total number of votes the voting members have from six to five, allocating three to the board of education and two to the governor.

Department's Position:

Chairpersons Kidani and Taniguchi,

The Hawaii State Department of Education (Department) opposes SB 810 that relates to collective bargaining for the following reasons:

1. Eliminating the Superintendent of Education as a voting member in collective bargaining negotiations for Unit 5-Teachers and Unit 6-Educational Officers impedes the Department's rights as management to manage, direct and control operations. The Superintendent is responsible for managing the day-to-day operations and decisions of the Department, not the Board of Education (Board). Removing the Superintendent's vote at the bargaining table fundamentally impacts operations and has a negative effect on the Department's core mission to provide a quality and equitable K-12 education for Hawaii's public school

students.

2. Existing statute provides the Governor with three votes, the Board with two votes, and the Superintendent with one vote for the purposes of negotiating collective bargaining agreements for Unit 5-Teachers and Unit 6-Educational Officers. This legislation proposes eliminating the Superintendent's vote, reducing the Governor's votes by one, and increasing the Board's votes by one. This structure would provide the Board with a majority of the votes in approving the collective bargaining agreements.

Equipping the Board with a majority of the votes will hinder the Governor's ability to exercise broader authority and oversight responsibility for balancing the state's budget and negotiating collective bargaining agreements for the thirteen (13) other units within the state government. This could have profound unintended consequences on the Governor's ability to consistently negotiate fair and equitable contracts with the exclusive representatives of all bargaining units.

Based on these reasons, the Department respectfully opposes this measure. Thank you for the opportunity to testify on this measure.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

DAVID Y. IGE
GOVERNOR



RYKER WADA
CHIEF NEGOTIATOR

STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

TESTIMONY TO THE
SENATE COMMITTEE ON EDUCATION and
SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS

For Hearing on Wednesday, February 17 at 3:10 p.m.
Conference Room 229 (Via Video Conference)

By

RYKER WADA
CHIEF NEGOTIATOR

Senate Bill No. 810
Relating to Collective Bargaining

CHAIRPERSONS KIDANI AND TANIGUCHI, VICE-CHAIRS MERCADO KIM AND IHARA AND MEMBERS OF THE COMMITTEES:

The Office of Collective Bargaining (OCB) **OPPOSES** S.B. 810, which eliminates the superintendent of education as a voting member constituting the public employer for the purpose of negotiating a collective bargaining agreement with personnel of the department of education. It also reduces the total number of votes the voting members have from six to five, allocating three to the board of education and two to the Governor.

OCB's opposition is based on the following:

- As currently drafted, this measure would significantly diminish the Governor's authority and ability to manage Department of Education's expenditures. Because the Department of Education has the most employees of any State department and is primarily funded by the State General Fund, this change could significantly hamper the Governor's ability to manage the State General Fund budget.

- The existing statutory language provides the Governor with the majority of votes with three votes, followed by the board of education with two votes, and the superintendent with one vote for the purpose of negotiating collective bargaining agreements for bargaining units 5 and 6.
- This measure would give the board of education the majority of votes by reducing the number of votes allocated to the Governor, increasing the number of votes allocated to the board of education, and eliminating the superintendent's vote.
- Allowing the board of education the ability to outvote the Governor could negatively impact the Governor's broader authority, oversight, and responsibility of balancing the State's budget and negotiating collective bargaining agreements for thirteen other bargaining units.

Based on the above, the OCB respectfully requests that this measure be **held**. Thank you for considering our concerns and for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON EDUCATION AND
LABOR, CULTURE AND THE ARTS
ON
SENATE BILL NO. 810

February 17, 2021
3:10 p.m.
Room 229 and Videoconference

RELATING TO COLLECTIVE BARGAINING

The Department of Budget and Finance opposes Senate Bill No. 810.

This bill eliminates the Superintendent of Education as a voting member constituting the public employer for the purpose of negotiating a collective bargaining (CB) agreement with personnel of the Department of Education. It also reduces the total number of votes the voting members have from six to five, allocating three to the Board of Education (BOE) and two to the Governor.

This bill essentially renders the Governor's votes meaningless, giving BOE full control of CB negotiations with Bargaining Units (BU) 5 (Teachers) and 6 (Educational Officers). The existing statutory language provides the Governor with the most votes with three votes, followed by BOE with two votes, and the Superintendent with one vote for the purpose of negotiating CB agreements for BUs 5 and 6.

Some of the difficulties with this approach include:

- These BUs are primarily funded by the general fund. The Governor is responsible for balancing the State's general fund financial plan. BU 5, in particular, is one of the

largest BUs, and the Governor would lose control over a significant portion of the general fund budget.

- One BU often sets precedents for others in CB negotiations. Allowing BOE the ability to outvote the Governor could negatively impact the Governor's broader authority, oversight, and responsibility of balancing the general fund financial plan and negotiating CB agreements for the 13 other BUs.

Thank you for your consideration of our comments.

SB-810

Submitted on: 2/16/2021 10:44:21 AM

Testimony for EDU on 2/17/2021 3:10:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dwight Takeno	Individual	Support	No

Comments:

The Senate

The Thirty-First Legislature

Regular Session of 2021

Senate Bill 810

Wednesday, February 17, 2021

3:10 p.m.

Conference Room 229 & Videoconference

To: Honorable Senators Michelle N. Kidani, Chair, Donna Mercado Kim, Vice Chair, and members of the Committee on Education, and Honorable Senators Brian T. Taniguchi, Chair, and Les Ihara, Jr., Vice Chair, and members of the Committee on Labor, Culture and the Arts

My name is Dwight Takeno and I am respectfully submitting testimony as an individual on Senate Bill 810, Relating to Collective Bargaining. Senate Bill 810 proposed to amend HRS, §89-6, subsection (d) (3) to eliminate the Superintendent of Education as a voting member constituting the public employer for the purpose of negotiating a collective bargaining agreement with personnel of the department of education. The proposal would reduce the total number of votes the voting members have from six to five allocating three to the Board of Education and two to the Governor.

I personally support the intent and purpose of Senate Bill 810.

As you may recall, prior to Act 253, SLH 2000, the Superintendent of Education did not have a vote or say in negotiations over a collective bargaining agreement for Units 5 and 6 under HRS, §89-6. In fact, the Board of Education (BOE)

members were highly involved in negotiations requiring the Department of Education (DOE) to work closely and transparently with the BOE in collective bargaining negotiations covering Unit 5 and 6 employees of the DOE. The prior statute provided that:

(b) For the purpose of negotiations, the public employer of an appropriate bargaining unit shall mean the governor or the governor's designated representatives of not less than three together with not more than two members of the board of education in the case of units (5) and (6), the governor or the governor's designated representatives of not less than three together with not more than two members of the board of regents of the University of Hawaii in the case of units (7) and (8), and the governor or the governor's designated representatives together with the mayors of all the counties or their designated representatives in the case of the remaining units. The designated employer representatives for units (5), (6), (7), and (8) shall each have one vote and in the case of the remaining units, the governor shall be entitled to four votes and the mayor of each county shall each have one vote, which may be assigned to their designated representatives. Any decision to be reached by the applicable employer group shall be on the basis of simple majority.

Act 253, SLH 2000, changed the voting structure under HRS, §89-6, due to the fact that the DOE and the University of Hawaii (UH) sought to become an autonomous jurisdiction from the Executive Branch under Chapter 89, HRS, and Chapter 76, HRS, in which both HRS, §76-11, and HRS, §89-2. Because the DOE separated from the Executive Branch, the voting structure under HRS, §89-6 was amended to include the Superintendent of Education as a voting member. The six (6) votes were distributed as three (3) for the Governor, two (2) for the Board of Education, and one (1) for the Superintendent with the decision still to be reached on the basis of simple majority. It was never intended to diminish or negate the BOE's role and authority in collective bargaining negotiations. At that time, the BOE as elected officials remained heavily involved as active participants in negotiations with the DOE as the primary support structure.

On November 2, 2010, Article X, Section 2, of the Hawaii State Constitution was amended to have the Governor nominate and appoint members of the BOE with the advice and consent of the Senate to provide the Governor with sole responsibility and authority over the DOE.

In my time and experience working at the Hawaii State Teachers Association, as well as, serving on the BOE, I have witnessed and experienced a significant change in the overall decrease of participation and involvement of the BOE in Unit 5 and Unit 6 negotiations. As the governing body to formulate statewide educational policy, it is imperative that the BOE once again play a more active and significant role in collective bargaining negotiations. Removing the Superintendent as a voting party would require the DOE to work more closely with the BOE as it was in the past. In addition, the Governor will still have a

significant voice and say over the DOE since the Governor has control over who is nominated and appointed to the BOE.

I do acknowledge and recognize that the proposed voting structure will generate concerns from the Governor and the Department of Budget and Finance due to the statutory requirements under HRS, §89-10. Therefore, switching the votes to three (3) for the Governor and two (2) for the BOE would hopefully resolve any concerns. Otherwise, another thought is to allow the Charter School Commission to have a vote since the Charter Schools are all tied into the negotiated contracts unless a Supplemental Agreement is reached by the Charter School and the exclusive representative. In this regard, the voting structure could be redefined as three (3) votes for the Governor, two (2) votes for the BOE, and one (1) vote for the Charter School Commission.

Thank you for your time and the opportunity to present this written testimony.

15 Pepeluali 2021

Committee of Education

Kenekoa Michelle N. Kidani, Luna Ho‘omaluku
Kenekoa Donna Mercado Kim, Hope Luna Ho‘omaluku

Committee of Labor, Culture and the Arts

Kenekoa Brian T. Taniguchi, Luna Ho‘omaluku
Kenekoa Les Ihara, Jr, Hope Luna Ho‘omaluku

Lā: 17 Pepeluali 2021

Hola: 3:10p

Wahi: CR 229

RELATING TO COLLECTIVE BARGAINING

S.B. 810: SUPPORT

‘O au ‘o M. ‘Ekekela Aiona, ka Pelekikena o ka ‘Ahahui Siwila ‘o Ke Aloha ‘Āina
My name is M. ‘Ekekela Aiona, President of ‘Ahahui Siwila ‘o Ke Aloha ‘Āina

Eia nō au e hō‘ike mana‘o nei i ke ***kāko‘o i ka pila S.B. 810***
I am submitting testimony in support of S.B. 810.

Mahalo no ka ‘ae ‘ana i ka hō‘ike mana‘o me ke kāko‘o i ka pila S.B. 810.
Mahalo for this opportunity to provide testimony in support of S.B. 810.

Mahalo nui,



M. ‘Ekekela Aiona

Pelekikena

‘Ahahui Siwila ‘o Ke Aloha ‘Āina (Hawaiian Civic Club)

SB-810

Submitted on: 2/12/2021 6:45:32 PM

Testimony for EDU on 2/17/2021 3:10:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Shintani	Individual	Support	No

Comments:

KÄ• ko'o!

SB-810

Submitted on: 2/15/2021 9:38:44 PM

Testimony for EDU on 2/17/2021 3:10:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Support	No

Comments:

I strongly support this bill.

The superintendent has shown absolutely NO BARGAINING IN GOOD FAITH.

The superintendent has sabotaged all Bargaining Units for 2020 and 2021.

LATE

SB-810

Submitted on: 2/17/2021 1:08:17 PM

Testimony for EDU on 2/17/2021 3:10:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Russell Suzuki	Individual	Oppose	No

Comments:

Chairpersons Kidani and Taniguchi, Vice-Chairs Mercado Kim and Ihara and members of the committees:

I oppose S.B. 810, which changes the balance of voting members constituting the public employer for collective bargaining negotiations for the Department of Education. The Department of Education is one of eighteen executive branch departments and, under art. V, sec. 6 of our State Constitution, "shall be under the supervision of the governor[.]" I join in the testimony of Chief Negotiator Ryker Wada. This bill would diminish the Governor's authority and ability to oversee and manage the DOE's expenditures and the Governor's overall management of executive branch agencies' overall expenditures. The Governor's and Budget and Finance's responsibility and authority to manage and control executive branch expenditures was decided in the Governor's and Budget Director's favor in the Hawai'i Supreme Court decision of *Board of Education v. Waihee*. The existing statutory language provides a fair balance by providing the Superintendent and the Board of Education a seat in the negotiations while recognizing that the ultimate constitutional and supervisory authority is with the Governor. For these reasons, I respectfully urge the Committees to not make changes to the existing law.