



GOV. MSG. NO. 907

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 8, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2972 HD1 SD2 CD1, without my approval, and with the statement of objections relating to the measure.

HB2972 HD1 SD2 CD1

A BILL FOR AN ACT RELATING TO EDUCATION.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2972

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2972, entitled "A Bill for an Act Relating to Education."

The purpose of this bill is to create a school Facilities Alignment Commission within the Department of Education, require the Department of Education to develop and provide a school facilities plan to the Commission, and require the Board of Education to implement the recommendations of the Commission unless they are disapproved in their entirety by the Legislature.

This bill is objectionable because it unfairly targets a selection of schools in specific geographic areas of the State. No rationale was provided as to why these school complexes were singled out while others were not targeted for possible closure or consolidation. Further, this was done without the public being given an opportunity to comment on this amendment prior to final passage of this bill.

This bill is also objectionable because the Facilities Alignment Commission it creates would be exempt from chapter 91, Hawaii Revised Statutes, covering public access and disclosure of information.

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 2972
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For the foregoing reasons, I am returning House Bill
No. 2972 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The legislature finds that with in-migration
2 and the aging of our population, among other things, the
3 demographics of the state are evolving. Over the past twenty-
4 five years, the statewide population has increasingly shifted
5 from the urban core to the suburbs, especially on Oahu, where
6 the population center has steadily moved to the western side of
7 the island. Meanwhile, Kihei, Maui, and West Hawaii are some of
8 the areas in the state with the fastest-growing populations.
9 These demographic shifts have overburdened public school
10 facilities in growing areas and left some public school
11 facilities in other areas underused. Thus, the legislature
12 believes there is a need to revitalize school facilities
13 statewide, including building or expanding schools in certain
14 areas and consolidating or closing schools in other areas.

15 However, the legislature finds that despite broad-based
16 public recognition of Hawaii's changing demographics, there is
17 often little public support for changes that affect specific



1 constituencies. In particular, this is true of proposals to
2 close or consolidate public schools to maximize resources.

3 The legislature recognizes the difficulties, political and
4 otherwise, inherent in these decisions. But in the face of
5 increasing educational needs, the legislature believes that just
6 as the construction or expansion of some schools is important,
7 the consolidation or closure of other schools is also necessary.
8 It is important that any actions be taken through a very
9 objective and transparent process that benefits the greatest
10 number of public school students and their families.

11 The purpose of this Act is to revitalize school facilities
12 statewide and to more effectively and efficiently use our
13 taxpayers' investment in public education. Specifically, this
14 Act provides for the timely closure or consolidation of
15 underused public schools in Hawaii through an objective and
16 transparent process that:

17 (1) Includes the establishment of a facilities alignment
18 commission that shall:

19 (A) Establish criteria for the selection of public
20 schools to be consolidated or closed; and



1 (B) Recommend, based upon these criteria, a list of
2 schools for consolidation or closure, which is
3 subject to review by the legislature;

4 and

5 (2) Directs the board of education to proceed with the
6 process of consolidating or closing underused schools
7 according to the recommendations of the facilities
8 alignment commission, if the legislature does not
9 disapprove of the recommendations in their entirety.

10 SECTION 2. Facilities alignment commission. (a) There is
11 established the facilities alignment commission, to be attached
12 to the department of education for administrative purposes. The
13 commission shall be composed of nine members appointed by the
14 governor; provided that:

15 (1) Three members shall be appointed from a list of
16 nominees submitted by the president of the senate, of
17 which two shall be persons with professional
18 experience in education, including former or current
19 teachers or administrators;

20 (2) Three members shall be appointed from a list of
21 nominees submitted by the speaker of the house of
22 representatives, of which two shall be persons with



1 professional experience in education, including former
2 or current teachers or administrators; and

3 (3) At least one member shall be a representative of the
4 department of education.

5 (b) A majority of the commission's membership shall be
6 persons with professional experience in education, including
7 current or former teachers or administrators.

8 (c) With the sole exception of those who are education
9 professionals, members of the commission shall not be employees
10 of the State.

11 (d) The chairperson of the commission shall be selected by
12 the members of the commission.

13 (e) For all actions of the commission, five members shall
14 constitute a quorum to do business, of which a majority vote
15 shall suffice.

16 (f) The commission shall be exempt from chapter 91, Hawaii
17 Revised Statutes, but shall be subject to chapters 92 and 92F,
18 Hawaii Revised Statutes.

19 (g) The members of the commission shall serve without
20 compensation but shall be reimbursed for expenses necessary for
21 the performance of their duties, including travel expenses.



1 (h) The department of education shall provide
2 administrative support to the commission. The commission shall
3 have access to all records in the department of education
4 pertinent to its duties and may request research and analysis
5 assistance from the department of education. Pursuant to
6 chapter 92F, Hawaii Revised Statutes, the commission shall
7 withhold from public disclosure all confidential information
8 received or maintained by the commission.

9 (i) The commission shall terminate upon adjournment sine
10 die of the regular session of 2011.

11 SECTION 3. Procedures for making recommendations for
12 school alignment; school facilities plan. (a) The department
13 of education shall submit to the commission by June 30, 2009, a
14 school facilities plan. The school facilities plan shall be
15 based on the department's assessment of the projected student
16 enrollment for the following:

- 17 (1) Elementary schools in the Castle, Farrington, Hilo,
18 Kahuku, Kailua, Kaiser, Kalaheo, Pearl City, and
19 Waiakea complexes; and
20 (2) Schools in the Honokaa, Kaimuki, Laupahoehoe, and
21 Waialua complexes.



1 (b) In conducting the assessment of the projected student
2 enrollment, the department of education shall:

3 (1) Consider the six-year program and financial plan
4 prepared pursuant to section 37-69, Hawaii Revised
5 Statutes, to the extent it is applicable;

6 (2) Develop and consider a projection of the enrollment at
7 the schools set forth in subsection (a) and the
8 resulting need for facilities; and

9 (3) Consider other reliable data relative to population
10 growth and trends, and anticipated levels of funding
11 necessary for the schools set forth in subsection (a).

12 (c) The school facilities plan shall include:

13 (1) A description of the assessment of projected student
14 enrollment required under subsection (a);

15 (2) A comprehensive inventory of all department of
16 education facilities at the schools set forth in
17 subsection (a); and

18 (3) Recommendations for the consolidation or closure of
19 underused schools based on the projections and
20 assessment made pursuant to this section.



1 SECTION 4. School alignment selection criteria. (a) By
2 December 31, 2009, the commission shall establish the criteria
3 that will be used by the commission to select:

- 4 (1) Schools to be consolidated, other than charter
5 schools; and
6 (2) Underused schools to be closed, other than charter
7 schools.
- 8 (b) The criteria shall require the consideration of:
9 (1) The overuse or underuse of school facilities;
10 (2) The academic and extracurricular achievement or
11 successes of the student body, and whether that
12 success was due at least in part to the existing size
13 of the school;
14 (3) The best interests of the students and preserving
15 their potential for success;
16 (4) The impact of the consolidation or closure of a school
17 on the community in which it is located;
18 (5) The costs or savings resulting from the continued
19 operation, consolidation, or closure of a school,
20 including the costs of deferred and future repair and
21 maintenance; and



1 (6) Alternative uses of the facilities, land, and property
2 assets of schools proposed to be consolidated or
3 closed, with priority for other educational uses;
4 provided that consideration be given to any action
5 necessary to effectuate an alternative use, which
6 shall include a rating to indicate the likelihood of
7 timely completion of each action, and the method of
8 projecting any revenue increase to the department of
9 education and the State.

10 (c) Before finalizing the school alignment selection
11 criteria, the commission shall hold public hearings to obtain
12 public response to the commission's proposed criteria. For each
13 public hearing, the commission shall provide appropriate notice,
14 as defined in section 1-28.5, Hawaii Revised Statutes, both
15 statewide and county-wide in each county of the state. The
16 commission shall make available to the public draft copies of
17 its proposed criteria not less than two weeks prior to the start
18 of the public hearings.

19 SECTION 5. Preliminary recommendations. (a) By
20 February 28, 2010, based on the school facilities plan developed
21 pursuant to section 3 and the final school alignment selection



1 criteria adopted pursuant to section 4, the commission shall
2 compile a preliminary list of recommended:

3 (1) Schools to be consolidated, other than charter
4 schools; and

5 (2) Underused schools to be closed, other than charter
6 schools.

7 (b) The list of recommendations shall include a summary of
8 the selection process that resulted in the recommendation of
9 each school on the list, including a justification for each
10 recommendation.

11 SECTION 6. Public hearings and final recommendations by
12 the commission. (a) By August 31, 2010, the commission shall
13 hold public hearings to obtain public response to the
14 commission's preliminary recommendations. For each public
15 hearing, the commission shall provide appropriate notice as
16 defined in section 1-28.5, Hawaii Revised Statutes, both
17 statewide and county-wide in each county of the state. The
18 commission shall make available to the public draft copies of
19 the preliminary recommendations not less than two weeks prior to
20 the start of the public hearings.

21 (b) Not less than twenty days prior to the convening of
22 the regular session of 2011, the commission shall submit to the



1 legislature a report of its findings and conclusions, including
2 a final list of recommendations for:

3 (1) Schools to be consolidated, other than charter
4 schools; and

5 (2) Underused schools to be closed, other than charter
6 schools.

7 (c) The final list of recommendations shall be subject to
8 legislative disapproval only in its entirety, by concurrent
9 resolution.

10 (d) If the legislature does not disapprove the
11 recommendations pursuant to subsection (c), then after the
12 adjournment sine die of the regular session of 2011, the board
13 of education, during the 2012-2013 school year, shall begin to
14 expeditiously implement the recommendations of the commission to
15 consolidate or close underused schools.

16 SECTION 7. This Act shall take effect on July 1, 2008.

