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GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/02/2023

Time: 02:00 PM

Location: 309 VIA VIDEOCONFERENCE

Committee: House Education

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB 0846 RELATING TO TEACHERS.

Purpose of Bill: Enacts the interstate teacher mobility compact to reduce the barriers to teacher license portability and employment.

Department's Position:

The Hawaii State Department of Education (Department) provides comments regarding HB 0846 relating to creating a compact to facilitate the mobility of teachers across the member states and to support teachers through a new pathway to licensure.

The Department acknowledges that there is a shortage of teachers for certain subject areas and rural or remote geographic areas which can lead to requiring the hiring of individuals who are not certified. This compact may allow more licensed out-of-state teachers to be quickly considered for hiring in these areas.

However, if the bill is approved, the Department defers to the Hawaii Teachers Standards Board regarding its proper implementation.

Thank you for the opportunity to provide comments on this measure.

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENT TO
HB 846**

Hearing Date: Thursday, February 2, 2023

Time: 2:00 p.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) providing **COMMENTS** to HB 846, Relating to an Interstate Teacher Mobility Compact (ITMC).

HAJ understands and appreciates the intent of the measure, however, we **oppose HB 846** as it would provide members, officers, executive director, employees and representatives of the commission **immunity from suit in their personal or official capacity for any claim for damage to or loss of property or personal injury or other civil liability** caused by arising out of any actual or alleged act, error or omission that occurred with the scope of employment. Under the ITMC immunity from tort liability or civil liability resulting in death, injury to persons, or property damage except in cases of intentional or willful or wanton misconduct of that person. This language is overly broad and puts Hawaii residents at risk for injuries that could occur.

Specifically, Section (8)(A) on page 22-23 of the bill provides that:

“The members, officers, executive director, employees and representatives of the commission **shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act**, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities;

provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any **damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.**”

Primarily, our concern is that the bill grants overbroad immunity to officers or employees rendering aid pursuant to the ITMC for **negligent acts**. The exceptions to immunity only apply to **intentional or willful or wanton misconduct while omitting negligent acts** that could harm our residents. For example, if an officer or employee rendering aid pursuant to the ITMC commits negligent acts while rendering aid, they will be immune under this act – leaving no legal recourse for the individual who was harmed. This immunity would even apply if that same officer or employee, while driving, hits a pedestrian through a failure to exercise due care or negligent maintenance of a vehicle

The standard of care that should be applied in any given situation is based on the specific circumstance. Negligent acts cannot and should not be overlooked, without recourse for those harmed, especially for our residents. HAJ opposes this type of immunity for negligent acts or omissions to preserve the rights of our residents and individuals. While we support intergovernmental cooperation for teachers, it is not necessary to exempt our officers of the ITMC from negligent conduct.

HAJ respectfully recommends the bill be amended to delete Section (8)(A). Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.