

JAN 20 2012

S.B. NO. 2541

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# 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 chapter 302A, Hawaii  
2 Revised Statutes, relating to education, contains numerous  
3 sections covering employer-employee issues. The legislature  
4 further finds that many of these employer-employee issues should  
5 be left to the collective bargaining process rather than be  
6 legislatively mandated.

7       The purpose of this Act is to repeal various sections of  
8 chapter 302A, Hawaii Revised Statutes, in order to allow  
9 employer-employee issues to be negotiated pursuant to the  
10 collective bargaining process. However, the repeal of those  
11 sections do not reflect a prohibitive view of these collective  
12 bargaining issues, but rather it reflects the fact that all of  
13 those areas are already permissive within the collective  
14 bargaining process.

15       SECTION 2. Section 302A-102, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "[+]§302A-102[+] Smoking prohibited[~~-exception~~]. [~~(a)~~]  
18 All public schools within the State, from kindergarten through



1 grade twelve, shall prohibit the use of tobacco at public  
2 schools or at public school functions.

3 ~~[(b) The department shall provide affected public~~  
4 ~~employees with breaks throughout the work day during which they~~  
5 ~~may smoke at locations off campus. The number and duration of~~  
6 ~~such breaks shall be subject to collective bargaining.~~

7 ~~(c) The department shall provide a smoking cessation~~  
8 ~~program for public employees who are interested in~~  
9 ~~participating, provided that issues relating to the costs of the~~  
10 ~~program shall be subject to collective bargaining.~~

11 ~~(d) This section shall not be subject to part II of~~  
12 ~~chapter 328K.] "~~

13 SECTION 3. Section 302A-608, Hawaii Revised Statutes, is  
14 repealed.

15 ~~["[§302A-608] Reemployed teachers; rights. After the~~  
16 ~~completion of the probationary period without discharge, such~~  
17 ~~teachers as are thereupon reemployed shall continue in service~~  
18 ~~in the public schools during good behavior and competent service~~  
19 ~~and prior to the age at which the teachers are eligible for~~  
20 ~~retirement, pursuant to section 88-73 or 88-281, and shall not~~  
21 ~~be discharged or demoted except for one or more of the causes~~  
22 ~~specified in section 302A-609."]~~



1       SECTION 4.   Section 302A-610, Hawaii Revised Statutes, is  
2   repealed.

3       ~~["§302A-610 — Job-sharing. — (a) — A job-sharing program is~~  
4   ~~established in the department subject to the requirements in~~  
5   ~~this section.~~

6       ~~(b) — The superintendent shall announce the job-sharing~~  
7   ~~program to all full-time, tenured, certificated personnel of the~~  
8   ~~department, excluding educational officers, and shall solicit~~  
9   ~~the voluntary requests of personnel interested in participating~~  
10   ~~in the program.~~

11       ~~The superintendent, in consultation with the recognized~~  
12   ~~employee bargaining units, shall formulate and adopt guidelines~~  
13   ~~for the implementation of this section. — Employees who respond~~  
14   ~~to the announcement and other persons who request information~~  
15   ~~shall receive a full written description of the terms of the~~  
16   ~~program when the guidelines are finalized, and those persons~~  
17   ~~desiring to participate may apply to participate in the program.~~  
18   ~~The employees who apply for participation shall obtain the~~  
19   ~~concurrence of their immediate supervisor, other appropriate~~  
20   ~~personnel officers, and the superintendent. — Those persons who~~  
21   ~~qualify then shall be interviewed by a personnel officer of the~~  
22   ~~department.~~



1        ~~Upon the selection of a permanent, full-time employee for~~  
2   ~~job sharing, the superintendent shall convert the position of~~  
3   ~~the employee into two job sharing positions, one of which shall~~  
4   ~~be filled by the employee, and the other by the hiring of a new~~  
5   ~~hire or by another tenured, certificated employee of the~~  
6   ~~department, excluding any educational officer.~~

7        ~~A person hired to fill a job sharing position shall be~~  
8   ~~recruited through this section and shall possess the minimum~~  
9   ~~requirements of the full-time position that was converted into a~~  
10   ~~job sharing position under this section.~~

11       ~~(c) Benefits that can be divided in half, such as the~~  
12   ~~number of days of sick leave, and are considered to be an~~  
13   ~~equitable share when divided, shall be computed on that basis.~~  
14   ~~Benefits that cannot be divided, such as eligibility for~~  
15   ~~membership in the public employees' health plan shall be given~~  
16   ~~to the job sharers without the foregoing division,~~  
17   ~~notwithstanding any provision of chapter 87 or 88 to the~~  
18   ~~contrary. The newly hired job sharer shall be excluded from~~  
19   ~~collective bargaining under chapter 89.~~

20       ~~The full-time permanent employee shall not lose membership~~  
21   ~~in an employee bargaining unit because of participation in this~~  
22   ~~program, any other law to the contrary notwithstanding. Union~~



1 ~~membership or service fees paid by the job sharer under this~~  
2 ~~section shall be at a level consistent with normal union~~  
3 ~~membership dues or service fees. The State's contribution to~~  
4 ~~the job sharers' prepaid health, prepaid dental, and group life~~  
5 ~~insurance plans shall be the same as for full time employees,~~  
6 ~~any other law to the contrary notwithstanding. Job sharers~~  
7 ~~shall be covered under chapter 386 and the applicable provisions~~  
8 ~~of chapter 383. Service credit for the tenured teacher~~  
9 ~~participating in the program under this section shall be given~~  
10 ~~on the same basis as that for full time employees. Nothing in~~  
11 ~~this section shall be construed, however, to vest any person~~  
12 ~~with any rights to permanent employment status, whether under~~  
13 ~~civil service or otherwise, which did not exist prior to the~~  
14 ~~participation of the person in the job sharing program. The~~  
15 ~~granting of tenure shall be under applicable statutes. No full-~~  
16 ~~time position shall be abolished or reduced to a half time~~  
17 ~~position except for the purpose of job sharing. In a reduction-~~  
18 ~~in force procedure, consideration of a job sharer's tenure~~  
19 ~~rights shall be on the same basis as that of a full time~~  
20 ~~employee. Nothing in this section shall impair the employment~~  
21 ~~or employment rights or benefits of any employee.~~



1       ~~(d) Tenured employees sharing full time positions with~~  
2       ~~other tenured employees shall not be required to relinquish~~  
3       ~~their duty free period. The job sharing team shall submit to~~  
4       ~~its principal a job sharing proposal that preserves its duty~~  
5       ~~free period and meets the educational needs of its students.~~  
6       ~~Where the job sharing team cannot reach a reasonable scheduling~~  
7       ~~agreement, the team may agree to waive its contractual rights by~~  
8       ~~executing a contract waiver.~~

9       ~~(e) Participation in the program shall require the~~  
10       ~~commitment on the part of all parties to a contractual agreement~~  
11       ~~for one year; provided that the employee shall be given the~~  
12       ~~option to renew the contract for another year, subject to~~  
13       ~~approval by the immediate supervisor and personnel officer of~~  
14       ~~the department.~~

15       ~~(f) No job sharing position committed to a specified~~  
16       ~~period of time under the terms of the contractual agreement~~  
17       ~~shall be converted to full time status before the termination of~~  
18       ~~the contractual agreement. A job sharing vacancy created by the~~  
19       ~~resignation, retirement, or other permanent or temporary~~  
20       ~~severance of employment with the department on the part of any~~  
21       ~~person may be filled by the department either through~~  
22       ~~recruitment of another person pursuant to this section, or by~~



1 ~~increasing the remaining half time job sharing person to full-~~  
2 ~~time employment by mutual agreement.~~

3 ~~(g) Upon the termination of contractual agreements, all~~  
4 ~~job sharing positions shall be renegotiated or reconverted to~~  
5 ~~full time positions, and the employees who held the full time~~  
6 ~~positions prior to their participation in the job sharing~~  
7 ~~program under this section shall be entitled to resume their~~  
8 ~~positions without loss of previous tenure or other employee~~  
9 ~~rights.~~

10 ~~(h) Beginning with the 2002-2003 school year, this section~~  
11 ~~shall be interpreted as though the term "certificated" read~~  
12 ~~"licensed" as the latter term is used in subpart D, and as~~  
13 ~~circumstances require."]~~

14 SECTION 5. Section 302A-611, Hawaii Revised Statutes, is  
15 repealed.

16 ~~["[§302A-611] Authorized leaves of absence; tenure status~~  
17 ~~unaffected. The granting of authorized leaves of absence by the~~  
18 ~~department to regularly employed teachers shall not affect any~~  
19 ~~of the tenure rights that the teacher may have acquired prior~~  
20 ~~thereto under section 302A-608."]~~

21 SECTION 6. Section 302A-613, Hawaii Revised Statutes, is  
22 repealed.



1       ~~["§302A-613] Exchange teachers and educational officers;~~  
2       ~~terms of contract. (a) The superintendent may contract for the~~  
3       ~~exchange of teachers and educational officers of the State with~~  
4       ~~teachers and educational officers of any other state, country,~~  
5       ~~or territory. Teachers and educational officers of the State so~~  
6       ~~exchanged shall be paid their regular salaries. The~~  
7       ~~qualifications of all teachers and educational officers from any~~  
8       ~~such state, country, or territory so exchanged shall be equal to~~  
9       ~~the qualifications of the teachers and educational officers~~  
10      ~~exchanged by the State. In the selection of teachers and~~  
11      ~~educational officers to be exchanged, preference shall be given~~  
12      ~~in the following order: teachers over educational officers,~~  
13      ~~principals and vice principals over other educational officers.~~  
14      ~~(b) All teachers and educational officers so exchanged by~~  
15      ~~the State shall be furnished transportation to and from the~~  
16      ~~state, country, or territory with which exchanged.~~  
17      ~~(c) No compensation shall be paid by the State to teachers~~  
18      ~~and educational officers exchanged from any other state,~~  
19      ~~country, or territory; provided that in any case where the~~  
20      ~~exchanged teacher or educational officer sent from Hawaii~~  
21      ~~becomes incapacitated or, for any reason, leaves the exchange~~  
22      ~~position permanently, the department may pay the visiting~~





1 ~~exchange teacher or educational officer an amount not to exceed~~  
2 ~~the salary rating of the teacher or educational officer on~~  
3 ~~exchange from Hawaii. The arrangement may continue until the~~  
4 ~~end of the current school year or until such time as some~~  
5 ~~satisfactory adjustment has been made."]~~

6 SECTION 7. Section 302A-614, Hawaii Revised Statutes, is  
7 repealed.

8 ~~["~~§302A-614~~ **Sabbatical leaves authorized.** (a) The~~  
9 ~~department may grant a year's or six months' sabbatical leave of~~  
10 ~~absence to any teacher or educational officer who has served~~  
11 ~~seven years in the public schools of the State. The teacher or~~  
12 ~~educational officer shall be guaranteed a return to the~~  
13 ~~teacher's or educational officer's or an equivalent position at~~  
14 ~~the expiration of the leave.~~

15 ~~(b) In granting sabbatical leaves, the department shall~~  
16 ~~consider, but not be limited to, the following:~~

17 ~~(1) The nature and length of professional educational~~  
18 ~~course work, research, or other professional activity~~  
19 ~~approved by the department; and~~

20 ~~(2) Applicant's seniority; provided that seniority shall~~  
21 ~~not be the dominant factor in granting sabbatical~~  
22 ~~leaves.~~



1       ~~(c) The leave shall not be extended beyond one year and~~  
2       ~~may not be repeated until after a period of seven additional~~  
3       ~~years of service."]~~

4       SECTION 8. Section 302A-615, Hawaii Revised Statutes, is  
5       repealed.

6       ~~["§302A-615] Pay while on sabbatical. Teachers or~~  
7       ~~educational officers on sabbatical leave shall be paid an amount~~  
8       ~~equal to one half of the salary to which the teacher or~~  
9       ~~educational officer would be entitled if regularly reappointed.~~  
10      ~~The payments shall be made in regular monthly installments, the~~  
11      ~~last two of which shall not be made until after the teacher or~~  
12      ~~educational officer has returned to the teacher's or educational~~  
13      ~~officer's position in the department. A teacher or educational~~  
14      ~~officer granted sabbatical leave may engage in any form of~~  
15      ~~employment provided the conditions established in section 302A-~~  
16      ~~616 are fulfilled."]~~

17      SECTION 9. Section 302A-616, Hawaii Revised Statutes, is  
18      repealed.

19      ~~["§302A-616 Conditions of sabbatical leave of absence.~~  
20      ~~(a) A teacher or educational officer on sabbatical leave shall~~  
21      ~~devote one half of the teacher's or educational officer's total~~  
22      ~~leave to professional educational course work, research, or~~



~~other professional activity approved by the department. The department shall establish guidelines and criteria of professional educational course work, research, or other professional activity. Before granting a sabbatical leave to a teacher or educational officer, the department and the teacher or educational officer shall enter into a contract, which shall provide for the following:~~

~~(1) That the teacher or educational officer agrees to return to serve in the department, the University of Hawaii, or any community college for a period of not less than two years within one year after termination of the teacher's or educational officer's sabbatical leave;~~

~~(2) That upon failure of the teacher or educational officer to comply with paragraph (1), the teacher or educational officer agrees to refund to the department all moneys received while on sabbatical leave;~~

~~(3) That upon failure of the teacher or educational officer to comply with paragraph (2), the teacher or educational officer agrees to pay for all costs incurred by the department in enforcing paragraph (2);~~



~~(4) That upon failure to comply with paragraph (1), the educational officer's Hawaii teaching certificate shall be canceled by the department; and~~

~~(5) Any other provisions deemed necessary by the department to be included in the contract.~~

~~(b) Beginning with the 2002-2003 school year, this section shall be interpreted as though the term "certificate" read "license", as the latter terms are used in subpart D, and as circumstances require."]~~

SECTION 10. Section 302A-618, Hawaii Revised Statutes, is repealed.

~~["§302A-618 Classification, teachers. (a) The designation of any teacher to any given class shall be determined by the department in accordance with licensing requirements.~~

~~(b) Any teacher teaching technical school courses who is transferred to a community college under the jurisdiction of the board of regents of the University of Hawaii shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege.~~

~~(c) Beginning with the 2002-2003 school year, this section shall be interpreted as though the terms "certification" and~~



~~"certificate" read "licensing" and "license", as the latter terms are used in subpart D, and as circumstances require."]~~

SECTION 11. Section 302A-623, Hawaii Revised Statutes, is repealed.

~~["§302A-623] Salary ranges, educational officers. Salary ranges for educational officer positions of the department shall be determined by the board based on the position classification/compensation plan approved by the board. Salary ranges for educational officer positions shall be subject to the requirements of sections 302A-625 and 302A-626."]~~

SECTION 12. Section 302A-625, Hawaii Revised Statutes, is repealed.

~~["§302A-625 Educational officers' salary schedules. The salary schedule for all educational officers of the department shall be negotiated pursuant to section 89-9."]~~

SECTION 13. Section 302A-629, Hawaii Revised Statutes, is repealed.

~~["§302A-629] Educational officers; demotion, transfers. Any educational officer demoted to a position in a lower salary range shall continue to be paid the educational officer's previous salary for the first year of the educational officer's demotion, after which time the educational officer shall be~~



1 compensated at the appropriate step in the salary range to which  
2 the educational officer has been demoted. Unless otherwise  
3 provided by the department, any educational officer who is in a  
4 school in which the school rating has declined to a number that  
5 would place the educational officer in a lower classification  
6 shall continue to be paid at the educational officer's same  
7 salary range as long as the educational officer remains in the  
8 same position in the same school."]

9 SECTION 14. Section 302A-631, Hawaii Revised Statutes, is  
10 repealed.

11 [~~"§302A-631 Educational officers with special assignments,~~  
12 ~~principals and vice-principals at special needs schools. (a)~~  
13 ~~Educational officers at the state, district, and school levels~~  
14 ~~with special assignments, where their duties and~~  
15 ~~responsibilities are greater than the duties and~~  
16 ~~responsibilities falling within the scope of their ordinary~~  
17 ~~duties and responsibilities, shall be provided additional~~  
18 ~~benefits by the department.~~

19 ~~(b) Principals and vice principals at special needs~~  
20 ~~schools shall be provided additional benefits by the department~~  
21 ~~pursuant to section 302A-625. As used in this subsection,~~  
22 ~~"special needs schools" means those schools having a relatively~~



1 ~~large proportion of students exhibiting low performance, as~~  
2 ~~indicated by such factors as low standardized achievement test~~  
3 ~~scores, a high retention rate, and a low graduation rate for the~~  
4 ~~area."]~~

5 SECTION 15. Section 302A-632, Hawaii Revised Statutes, is  
6 repealed.

7 ~~["§302A-632] Additional benefits to certain [school~~  
8 ~~personnel and] teachers. The department shall provide~~  
9 ~~additional benefits to grade level chairpersons, department~~  
10 ~~heads, registrars, and librarians in schools. The department~~  
11 ~~shall also provide additional benefits to teachers assigned to~~  
12 ~~schools in areas designated as limited environment communities~~  
13 ~~by the department."]~~

14 SECTION 16. Section 302A-633.6, Hawaii Revised Statutes,  
15 is repealed.

16 ~~["§302A-633.6 Allocations for coaches. (a) Persons who~~  
17 ~~serve as coaches for school activities shall be paid a portion~~  
18 ~~or all of their allocation for their services, which shall~~  
19 ~~increase by the same percentage as specified in a collectively~~  
20 ~~bargained agreement negotiated for bargaining unit (5) and in~~  
21 ~~force for that time period.~~



1       ~~(b) The base stipend for coaches shall be the compensation~~  
2       ~~amounts for coaches for the 2000-2001 school year. Effective~~  
3       ~~July 1, 2003, the base stipend for all coaches of department of~~  
4       ~~education activities shall be increased by fifty per cent for~~  
5       ~~coaches who are employed by the department of education in a~~  
6       ~~teaching capacity and by twenty five per cent for coaches who~~  
7       ~~are not employed by the department of education in a teaching~~  
8       ~~capacity.~~

9       ~~(c) Coaches covered by this section may choose to waive~~  
10       ~~all or part of the coach's right or interest in the payment~~  
11       ~~stipend. If a coach chooses to waive all or part of the~~  
12       ~~stipend, the department of budget and finance shall dispense~~  
13       ~~funds in the amount of the waiver directly to the school to be~~  
14       ~~used for the benefit of the coach's team. No amount waived~~  
15       ~~under this section shall be deemed to be or reported as income~~  
16       ~~of the coach choosing to waive." ]~~

17       SECTION 17. Section 302A-636, Hawaii Revised Statutes, is  
18       repealed.

19       ~~[ "§302A-636 Cafeteria managers. All cafeteria managers~~  
20       ~~employed in the department shall be employed and have their~~  
21       ~~salaries fixed in accordance with chapter 76 and the appropriate~~  
22       ~~collective bargaining agreement, executive order, executive~~





1 ~~directive, or rule, and the monthly rates of basic compensation~~  
2 ~~so determined shall be payable over a twelve month period~~  
3 ~~without proration or deduction for periods when school is not in~~  
4 ~~session. Cafeteria managers shall have the same vacation and~~  
5 ~~sick leave allowances as school teachers and principals."]~~

6 SECTION 18. Section 302A-639, Hawaii Revised Statutes, is  
7 repealed.

8 [~~"§302A-639 Houseparents; statewide center for students~~  
9 ~~with hearing and visual impairments. All houseparents at the~~  
10 ~~statewide center for students with hearing and visual~~  
11 ~~impairments employed in the department shall be employed and~~  
12 ~~have their compensation adjusted according to chapter 76 and the~~  
13 ~~appropriate collective bargaining agreement, executive order,~~  
14 ~~executive directive, or rule, and the monthly rates of basic~~  
15 ~~compensation so determined shall be payable for employment over~~  
16 ~~a twelve month period. All houseparents shall be employed for~~  
17 ~~twelve months on a full time basis."]~~

18 SECTION 19. Statutory material to be repealed is bracketed  
19 and stricken.




# S.B. NO. 2541

1 SECTION 20. This Act shall take effect upon its approval.

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INTRODUCED BY:



Clarence Kreshikian

Erzanne Chun Oakland

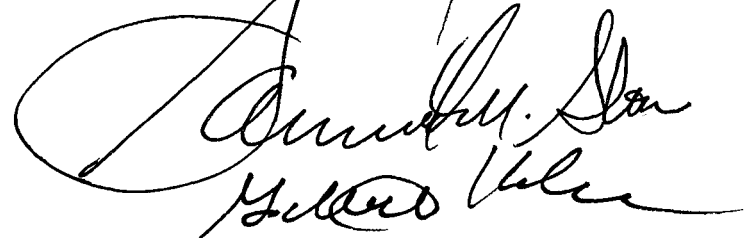
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# S.B. NO. 2541

**Report Title:**

Education; Collective Bargaining

**Description:**

Repeals various sections of chapter 302A, HRS, in order to leave employer-employee issues to be negotiated pursuant to the collective bargaining process.

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

