



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 896, S.D. 2, H.D. 1, RELATING TO EDUCATION.

**BEFORE THE:**

HOUSE COMMITTEE ON LABOR

**DATE:** Tuesday, March 24, 2026

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Anne T. Horiuchi or Randall M. Wat, Deputy Attorneys General

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Chair Sayama and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill: (1) requires the Department of Education (DOE) to submit annual reports to the Legislature outlining certain information concerning capital improvement projects (CIP) and facilities; (2) requires the reports to be posted on the DOE's website annually in a searchable format; (3) provides that any CIP funds encumbered for more than five years without commencement of construction shall be specifically identified and justified, or shall be subject to legislative review for reversion or reassignment; and (4) establishes a five-year pilot program authorizing the Superintendent of Education to redesignate funded, vacant positions in the Office of Facilities and Operations (OFO) as positions exempt from Hawaii's Civil Service Laws for the purpose of hiring qualified professionals.

Section 3 of the bill (starting on page 5, line 8) adds a new section to chapter 302A, Hawaii Revised Statutes (HRS), creating a pilot program within the DOE's OFO authorizing the Superintendent to redesignate funded, vacant positions as positions exempt from chapter 76, HRS. In section 3, new section 302A- (b), HRS, provides that the Superintendent "may fix the compensation for positions redesignated and converted to positions exempt from chapter 76 under this section at rates comparable to prevailing market rates." (Page 7, lines 3-6.) The Department notes that pursuant to

section 89-9, HRS, wages are a mandatory subject of bargaining for employees included in bargaining units under section 89-6, HRS. Changing a position to "exempt" does not change its bargaining unit inclusion/exclusion status. To address this concern, the Department recommends revising the new section 302A- (b) in section 3 of the bill, on page 7, lines 3-6, as follows:

(b) **[The] Notwithstanding any law to the contrary and if negotiated pursuant to section 89-9, for those employees within appropriate bargaining units under section 89-6, the** superintendent may fix the compensation for positions redesignated and converted to positions exempt from chapter 76 under this section at rates comparable to prevailing market rates.

(Suggested changes Ramseyered against the existing text of the bill and in bold.)

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



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

**Date:** 03/24/2026  
**Time:** 09:30 AM  
**Location:** 309 VIA VIDEOCONFERENCE  
**Committee:** LAB

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** SB896, HD1, RELATING TO EDUCATION.

**Purpose of Bill:** Requires the Department of Education to submit annual reports to the Legislature outlining certain information concerning capital improvement projects and facilities. Requires the reports to be posted on DOE's website annually in a searchable format. Provides that any CIP funds encumbered for more than five years without commencement of construction to be identified and justified, or be subject to legislative review for reversion or reassignment. Establishes a five-year pilot program authorizing the Superintendent of Education to redesignate certain positions in the Office of Facilities and Operations as exempt from civil service laws. Effective 7/1/3000. (HD1)

**Department's Position:**

The Hawaii State Department of Education (Department) appreciates the opportunity to offer comments on SB 896, SD2, HD1.

The Department recognizes the Legislature's concern regarding the execution of capital improvement projects (CIP), transparency, and technical capacity. The Department shares with the Legislature the goals of strengthening accountability and improving internal expertise to ensure the timely delivery of school facilities projects.

Financial data for the Department's CIP program is maintained in the Aukahi Financial Management System, while project status data is maintained in the Capital Projects Tracker. In an effort to modernize and improve transparency in its CIP program, the Department has convened a working group from its finance, information technology, and facilities offices to assess and evaluate how these systems can be better aligned to strengthen consolidated reporting.

The Department respectfully recommends that subsection (b) allow flexibility in reporting structure rather than prescribing each data element in statute, to allow continued system modernization while maintaining transparency. The Department also respectfully requests clarification that reporting requirements apply only to Department-administered projects and do not include attached agencies, such as the Hawaii School Facilities Authority, State Public Charter School Commission, or the

Hawaii State Public Library System, which have separate governance structures and reporting responsibilities.

The Department can identify projects with funds encumbered for more than five years. However, clarification is recommended to ensure that projects in active planning, design, procurement, environmental review, or phased construction are not deemed inactive solely due to elapsed time. Complex school CIP often span multiple fiscal years and appropriations before construction begins. The design and construction phases of these CIP projects are rarely funded within a single budget cycle, nor is it preferred. Large appropriation balances in the aggregate do not mean that projects have stalled or that they are not progressing. Rather, appropriation balances in the aggregate reflect the cumulative balance of funds revolving through the system to fund projects, as new appropriations are approved and older ones are expended.

The Department supports the goal of improving recruitment and retention of qualified technical professionals. Allowing up to twenty vacant positions in the Office of Facilities and Operations to be converted to positions exempt from Chapter 76, Hawaii Revised Statutes (civil service), with compensation set at prevailing market rates, may improve hiring flexibility. However, limiting flexibility only to newly converted exempt positions may create compensation disparities for similarly situated civil service employees who perform the same duties or have the same responsibilities. Additionally, requiring identification of a specific digital project management system before the appointment may delay hiring if procurement processes are still underway.

The Department also supports the Legislature's objective of enhanced transparency and improved technical capacity. Many reporting elements can be produced using existing systems, though some of the more consolidated and detailed requirements will require effort and further system integration. With reasonable flexibility in reporting structure and clarification regarding scope and attached agencies, the Department can continue to improve accountability while maintaining focus on timely project delivery.

Thank you for the opportunity to provide comments on SB 896, SD2, HD1.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME Local 152, AFL-CIO

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The Thirty-Third Legislature, State of Hawaii  
The House of Representatives  
Committee on Labor

Testimony by the  
Hawaii Government Employees Association

March 24, 2026

S.B. 896, S.D. 2, H.D. 1 — RELATING TO EDUCATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes S.B. 896, S.D. 2, H.D. 1, **specifically Section 3**, which establishes a five-year pilot program authorizing the Superintendent of Education to redesignate funded, vacant positions in the Office of Facilities and Operations as positions exempt from Hawaii's Civil Service Laws for the purpose of hiring qualified professionals. **We respectfully request an amendment to delete Section 3 of this measure.**

We strongly oppose granting the Superintendent unilateral authority to exempt vacant positions within the Office of Facilities and Operations. Exempt employees do not have the same rights as civil service employees as they are considered "at-will" by the employer. Furthermore, exempt employees do not go through any merit-based hiring which opens the door for patronage hires and favoritism.

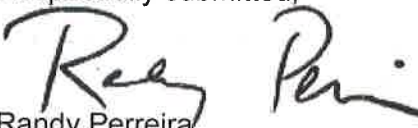
Over these past few years, we have seen a troubling increase in the use of exempt positions. This trend is not driven by necessity, but by systemic failures not being addressed – namely, a lethargic civil service hiring process, the refusal to offer competitive civil service pay, and in some cases, management seeking greater unilateral control by stripping employees of job protections. This proposal does not address the root issues and is rather a band-aid fix.

This bill also raises serious pay equity concerns. Exempt employees are often compensated at higher rates than their civil service counterparts, even when performing the same duties. This inequity is inherently demoralizing and unfair, particularly to incumbent civil service employees who have followed the rules, competed through merit-based processes, and remained committed to public service.

We are deeply concerned that this bill constitutes union busting because it undermines the integrity of the civil service system and sets a dangerous precedent that allows departments to circumvent civil service laws and collective bargaining by simply redesignating positions. This is not workforce reform – it is the systematic dismantling of worker protections.

Thank you for the opportunity to provide testimony in opposition to S.B. 896, S.D. 2, H.D. 1.

Respectfully submitted,

  
Randy Perreira  
Executive Director