



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 9, 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:

Re: Senate Bill No. 2449 SD2 HD2 CD1

On July 8, 2008, Senate Bill No. 2449, entitled "A Bill for an Act Relating to Education" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to repeal the two-consecutive-year probationary period for first time Department of Education teachers, vice-principals, and principals.

The current contract between the Hawaii State Teachers Association and the State of Hawaii stipulates that newly employed teachers are subject to one year of probationary status. This provision conflicts with current law, which requires first time teachers, vice-principals, and principals to complete a two-year probationary period.

This conflict is problematic because the Hawaii Supreme Court has ruled that "Compliance with statutes is non-negotiable and collective bargaining agreements that prevent the government agency from complying with its statutory duties are unenforceable as against public policy." In other words, the current one-year probationary period in the collective bargaining agreement is arguably unenforceable because it is not consistent with the law.

Repealing the two-year statutory probationary period will resolve this conflict. My Administration has held the position that the length of a probationary period is a matter to be determined by management and should not be subject to negotiation. However, we recognize that the Department of Education negotiated the one year probationary period with the teachers union.

For the foregoing reasons, I allowed Senate Bill No. 2449 to become law as Act 222, effective July 8, 2008, without my signature.

Sincerely,

LINDA LINGLE