

Legislative Auditor

OVERVIEW

SUNRISE ANALYSIS OF A PROPOSED TEACHER STANDARDS BOARD

Honolulu, Hawaii

January 1990

Summary

The Hawaii Regulatory Licensing Reform Act requires the legislative auditor to analyze legislation that proposes to regulate an occupation. The exercise of the state's police power has been proposed for a Hawaii Teacher Standards Board in Senate Bill 896, Senate Draft 1.

The legal framework requires that regulation be undertaken only when reasonably necessary to protect the health, safety, and welfare of consumers; when there is evidence of abuse; and when consumers are at a disadvantage in choosing a provider of a service. The law also says that regulation shall not be undertaken to advance the occupation or unreasonably restrict entry. The proposed legislation must meet the criteria of *rationality* (some reasonable relationship between the purpose of regulation and how regulation will accomplish that purpose), *specificity* (certainty in terms

and conditions), and *fairness* (adherence to the requirements of due process).

The proposed board would issue licenses to new public school teachers according to as yet unspecified standards. Private school teachers and currently licensed ("certificated") teachers would be exempt. The Department of Education would not be permitted to hire teachers unless they were licensed by the proposed board.

The proposed board would be composed of six teachers and five other members. It would be administratively assigned to the Department of Commerce and Consumer Affairs. In its jurisdiction over public school teachers, the proposed board would assume the current certification responsibilities of the Board of Education.

FINDINGS

The proposed board does not meet criteria for occupational regulation under the law. There is no evidence that the board is needed to protect the public health and welfare. Its purpose is to advance the teaching profession. The proposal is too vague to be rational, specific, and fair.

Teachers are already being licensed by the Department of Education. Substituting the proposed board would not correct such practices as out-of-field assignments. Some improvements could be made in the department's licensing program, but the proposal could create more problems than it solves.

RECOMMENDATIONS

1. Senate Bill 896, Senate Draft 1, should not be enacted.

2. The Department of Education should consider ways to expand the supply of teachers through greater reciprocity and participation in regional credentialing programs.

3. The Board of Education and the department should improve the licensure program through an advisory group on licensing standards for public school personnel. The group should submit biennial reports to the Legislature.

4. The department should develop information on assignments made outside the fields of preparation and the impact of this practice.

5. The Legislature, the board, the department, and all teachers should monitor and, as appropriate, participate in the national certification efforts under way.

RESPONSE

The Board of Education did not comment on the recommendations. The Department of Education is satisfied with the report. Both the BOE and DOE commended the report for its comprehensiveness. The Department of Commerce and Consumer Affairs noted that the report paralleled many of the department's concerns.

HSTA disagreed with the report. It objects to a "strict interpretation" of Hawaii's regulatory statute. It maintains that the current licensure process, in combining hiring and licensure, does not assure that every teacher hired is qualified to teach.