



KAMEHAMEHA SCHOOLS

Testimony to the Senate Committees on Education
Hearing Date: Monday, January 28, 2008
1:15p.m. – Conference Room 225

Shawn Malia Kana'iaupuni, PhD
Director, Public Education Support (PEdS) Division
Kamehameha Schools

Monday, January 28, 2008

Re: SB 2164 Relating to Education

Good afternoon Chair Sakamoto, Vice Chair Tokuda and members of the Senate Committee on Education. My name is Shawn Malia Kana'iaupuni, PhD, Director, Public Education Support (PEdS) Division of Kamehameha Schools. Thank you for this opportunity to testify on SB 2164.

Kamehameha Schools has been a collaborator in the charter school movement for more than six years now. As part of our Education Strategic plan, KS hopes to significantly impact more Hawaiian children ages 0-8 and grades 4-16+, and their families/ caregivers over the next five years, in collaboration with others whenever possible.

Currently, Kamehameha Schools collaborates with 12 nonprofit tax-exempt organizations, including `Aha Pūnana Leo, OHA, KALO and Ho`okāko`o Corporation, to assist a total of 12 start-up and 2 conversion charters. Kamehameha Schools believes that this collaboration provides more positive educational choices and ultimately academic achievement for Hawaiian students. Through these collaborations, Kamehameha Schools currently assists more than 2,300 students in 13 communities on 4 major islands, within the public education system.

In a report released August 2006 entitled, "Longitudinal Outcomes for Hawaiian-focused charter schools," the Kamehameha Schools research team concluded that Hawaiian-focused charter schools are implementing viable educational strategies, making significant gains over time for the lowest-achieving students. Supporting and replicating the successful strategies found in Hawaiian-focused charter schools may generate a promising return on investment for Hawaiian education throughout the public school system.

Kamehameha Schools supports the intent of SB 2164 which is to provide a greater measure of support for charter schools.

We appreciate this opportunity to submit comments on SB 2164 and support the initiatives of the legislature to further enhance charter schools.

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L A T E

SENATE COMMITTEE ON EDUCATION

TESTIMONY REGARDING SB 2164 RELATING TO EDUCATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 28, 2008
TIME: 1:15PM
ROOM: 225

This legislation provides a tax credit for persons that make contributions to charter school repairs, maintenance, or development.

The Department of Taxation (Department) provides comments on this legislation.

I. THE DEPARTMENT SUPPORTS CHARTER SCHOOL FACILITIES IMPROVEMENTS

Encouraging the development of charter schools is an important public policy. As the Administration has stated time and again, charter schools are a vibrant, vital, and successful alternative to traditional public schools. Legislation such as this, which seeks to direct support to the charter school movement, are important measures that deserve consideration.

II. A CHARITABLE DEDUCTION CAN ALREADY BE CLAIMED FOR GOODS.

The Department points out that a charitable tax deduction is already allowed for donations of goods to qualifying educational institutions. This legislation would result in a double tax benefit. No deduction is allowed for services. Correspondingly, however, no income tax is paid by the donor.

III. DONORS OF SERVICES WILL BE CHARGED INCOME TAX.

Under this bill, persons that donate services will be entitled to a credit for services performed. This credit will be considered income for their services and will be subject to income tax. The Department questions the attractiveness of such credits where the benefit will be diluted because income tax will have to be paid.

IV. THE DEPARTMENT POINTS OUT ADMINISTRATIVE CONCERNS

The Department's primary concern with this legislation is the administrative difficulty that may arise based upon how the credit is currently drafted.

CONCERN OVER INFLATED IN-KIND SERVICES—The Department recognizes that this legislation requires that the in-kind services must be certified by the Department of Accounting & General Services. However, the concern that in-kind services will not be grossly over-inflated for purposes of claiming the credit may not be sufficiently tempered as written. The Department suggests the Committee further discern the issue of potential fraud and abuse. The Department is also concerned about the level of resources necessary to administer this component of the credit.

DETERMINATION OF DELINQUENT TAXES—The Department is also concerned about administering the delinquency status of taxpayers. The number of taxpayers that may seek to claim the credit may overwhelm the determination of delinquent status. The Department is concerned about the level of resources that will be necessary to administer this component of the credit.

OTHER AGENCY INVOLVEMENT—The Department very much appreciates that this legislation delegates determination matters to the experts involved, namely the Department of Accounting & General Services and Kanu o ka 'aina learning Ohana.

V. REVENUE ESTIMATE

This legislation will result in a revenue loss of \$250,000 based upon the cap of credits that can be issued.

L E G I S L A T I V E

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SUBJECT: INCOME, Credit for charter school repair and maintenance

L A T E

BILL NUMBER: SB 2164; HB 2561 (Identical)

INTRODUCED BY: SB by Sakamoto; HB by Takumi, Berg, Chang, Sonson & 1 Democrat

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer subject to HRS chapter 235 and: (1) licensed under HRS chapters 444, 448E, 454, 460J, 464, 466K, or 467; (2) is a member of the Hawaii state bar association; (3) is an employee of entities regulated under title 22; or (4) provides environmentally sustainable goods or services; to claim a tax credit for contributions of in-kind services for the repair, maintenance, acquisition, predevelopment, rehabilitation, construction, and other capital improvements of charter schools provided by the licensed taxpayer in Hawaii or facilities administered, operated, or developed by nonprofit corporations for the benefit of charter schools. The credit shall be 10% of the value of contributions of in-kind goods and services to the Hawaii charter school facilities fund for that taxable year up to an annual maximum of \$40,000.

Credits in excess of tax liability may be applied to subsequent tax liability until exhausted. Requires claims, including any amended claims, to be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed.

Directs the Kanu o ka aina learning ohana to maintain records of taxpayers eligible for the credit and the total value of in-kind goods and services contributed by eligible taxpayers. Delineates the provisions relating to the verification of contributions, issuance of a certificate to qualified taxpayers to be filed with the department of taxation. When the total amount of certified contributions reaches \$2.5 million, the Kanu o ka aina learning ohana shall cease the issuance of certificates.

Directs the director of taxation to prepare the necessary forms to claim the credit, may require proof to claim the credit, and adopt rules pursuant to HRS chapter 91 to carry out this section.

Adds a new section to HRS chapter 302B to establish the Hawaii charter school facilities fund as a separate fund of the kanu o ka aina learning ohana, a Hawaii nonprofit corporation.

Appropriates \$2.5 million for fiscal 2009 for the Hawaii charter school facilities fund, effective July 1, 2008.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes to allow contractors, electricians, plumbers, pest control operators, architects, surveyors, engineers, mortgage brokers and solicitors, real estate brokers and salesman, and real estate appraisers to claim a credit for contributions of in-kind goods and services made for the benefit of charter schools.

SB 2164; HB 2561 - Continued

It should be recognized that the tax system is not an efficient means to accomplish this goal. It should also be noted that since contributions to agencies of the federal, state or county governments under both state and federal income tax laws are deductible against gross income, it would appear that the adoption of this measure is unnecessary.

Care should be exercised in this area. Note well that there is no standard for determining the value of the "in-kind" contributions. While there is a cap on the amount of the credit set at \$40,000 per year per taxpayer, how much work that represents is not clear. At a rate of 10%, the maximum credit would represent \$400,000 of in-kind services contributed to this program. Does that represent one hundred hours of work or ten hours of work? It will all depend on what the taxpayer estimates as the value of his in-kind services. That time may not represent very much in the scheme of things.

On the other hand, inasmuch as the proposed credit would be granted only for contributions to public charter schools in the state, it discriminates against non-public institutions of learning. Since the current allowance for deduction of contributions made to educational institutions does not differentiate between public or private entities, the deduction is more equitable.

One of the complaints filed by charter schools is the allocation of resources from the department to run such schools does not take into account the capital necessary for facilities. As a result, the allocation of public funds merely recognizes operating costs and, as a result, what funds are available must cover both the cost of programs and facilities. This is the advantage enjoyed by the traditional public school. All of the public school facilities were built with public funds, usually debt financed and generally are charged against operating costs. One alternative to addressing this disparity is to allow charter schools to use public facilities. Many of the educational facilities in the Honolulu urban core and East Honolulu go vacant or are occupied by education administrators because of declining enrollment as the center of the population moves out west or to Central Oahu. Consideration might be given to allowing charter schools to utilize these facilities as an alternative to renting or building their own facilities. Since these are students who would otherwise have been in the traditional public school, it only makes sense to utilize these facilities and ease the burden on charter schools' operating costs.

The irony of this proposal is that it proposes to reward some, but not others, for volunteering of their time and skills. The spirit of the bill is based on "volunteerism" with all parties coming together to solve this problem. If that is the case, it is questionable why some who participate will get a tax credit while others will not be compensated in a similar manner. If indeed this bill represents an effort from the community, then there is no reason to provide a tax credit for some and not others who are giving of their time, talents and materials to improve the schools and the community as a whole. Why are only these professionals singled out? Is it because they want to be paid while others volunteer? At the crux of it all, that is what the credit represents, is payment for contributions of "in-kind services." Obviously volunteerism no longer comes from the heart, but rather it comes from the pocketbook.

Digested 1/28/08



KALO

L A T E

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January 28, 2008

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For the Senate Committee on Education
January 28, 2008 hearing, 1:15 p.m., room 225

**Testimony in strong support of the intent of SB 2164
"Relating to Education" but deferring to SB 2494
(scheduled for hearing by EDU on January 30, 2008)**

In spite of a clear obligation under Article X, section 1 of the State Constitution to provide equitable funding for charter school facilities, this goal continues to elude the State of Hawaii. The intent of this measure is to begin constructing the fiscal, administrative and statutory infrastructure needed to facilitate innovative public-private partnerships that can leverage modest public investment and begin to address this pressing need.

The Hawaii Charter School Facilities Fund is modeled after the successful Hawaii 3Rs program (and national best practices in charter school facility finance), although expanded to include capital improvement projects as well as repair and maintenance. It is intended to serve all charter schools without partiality. The language in the bill tracks that of the existing Hawaii 3Rs statute and tax credit.

Except for an appropriation of \$2.5 million in this measure, the language of SB 2164 is identical to that of SB 2494, which is scheduled for hearing by this committee on January 30, 2008. We whole-heartedly support that appropriation amount. However, because SB 2494 is a double referral to EDU and WAM, while SB 2164 is a triple referral to EDU, EDT, and WAM, we would urge this committee to consider deferring SB 2164 in favor of SB 2494.

If the committee decides to move this measure, please find attached proposed technical, non-substantive amendments for the purposes of clarity and enhanced alignment with relevant constitutional language.

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*Kanu o ka 'Āina Learning 'Ōhana
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for a sustainable Hawai'i*

Sincerely,

Taffi Wise
Executive Director

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