

**HB 1686**

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON  
HOUSE BILL NO. 1686, H.D. 2, S.D. 1

April 2, 2009

RELATING TO CHARTER SCHOOLS

House Bill No. 1686, H.D. 2, S.D. 1, establishes a mechanism for funding Charter School operations based on the Department of Education's general fund regular education cost categories and excluding fringe benefits and debt service. This bill also establishes a mechanism for funding Charter School facilities.

In previous testimony, we maintained that the most accurate and fair method of budgeting for the Charter Schools would be to review actual needs and expenditures, similar to the budgeting method for other State departments. The CIP budget provisions in this bill appear to be similar to the process for other State departments.

We also support the provision which requires the Charter Schools to identify all means of financing in their operating budget request.

Date of Hearing: Thursday, April 2, 2009

Committee: Committee on Ways and Means

Board: Education

Person Testifying: Garrett Toguchi, Chairperson, Board of Education

Title of Bill: H.B. No. 1686, H.D. 2, S.D. 1, Relating to Charter Schools

Purpose of Bill: Makes clarifying amendments to the charter school laws by, among other things: (1) Requiring charter school board compliance with Board of Education (Board) policies made in the Board's capacity as the State Educational Agency (SEA) and Department of Education (Department) directives made in the Department's capacity as the SEA regarding special education and federal programs; (2) Authorizing the Board to direct the Charter School Review Panel (CSRP) to take appropriate action to immediately address serious health and safety issues that may exist at a charter school; (3) Clarifying that CSRP is subject to the Sunshine Law; (4) Making the review, modification, and approval of the charter schools budget and Capital Improvement Projects budget, and the allocation of non-per-pupil facilities funds to charter schools, the responsibility of CSRP; (5) Specifying the composition of the budget request for charter schools, and including the budget request responsibilities under the duties of the Charter School Administrative Office Executive Director; (6) Authorizing the Board to remove a CSRP member for cause; (7) Establishing a per pupil

funding amount and formula and facilities formula for charter schools; and (8) Changing the interval in which CSRP is to conduct multi-year evaluations of each charter school.

Board's Position: Chairperson Kim, Vice Chairperson Tsutsui, and members of the Senate Committee on Ways and Means, thank you for the opportunity to submit comments on this measure.

The Board is in support of two provisions in H.B. No. 1686, H.D. 2, S.D. 1 that are similar to the Board-initiated legislation on charter schools. The provisions are:

- Requiring charter school compliance with Board of Education policies made in the Board's capacity as the SEA and Department of Education directives made in the Department's capacity as the SEA, with respect to special education and federal programs; and
- Enabling the Board to remove a CSRP member for cause.

The Board recommends amending H.B. No. 1686, H.D. 2, S.D. 1 by repealing Subsection 302B-14(h), Hawaii Revised Statutes, which requires the Board to adopt rules for placing charter schools

on probation and for revoking a charter. This provision is no longer necessary or applicable as the Board's only role is to serve as an appeals board with respect to appeals from CSRP decisions in denying the approval of a charter school application, revoking a charter school's charter, and denying the approval of an amendment to a charter school's Detailed Implementation Plan.

Thank you for the opportunity to comment on H.B. No. 1686,  
H.D. 2, S.D. 1.



## KAMEHAMEHA SCHOOLS

Testimony to the Senate Committee on Ways and Means  
Hearing Date: Thursday, April 2, 2009  
9:30 a.m. – Conference Room 211

**Kalei Kailihiwa, Director, Ho'olako Like  
Kamehameha Schools**

### **Re: HB 1686 HD2 SD1 Relating to Charter Schools**

Good afternoon Chair Mercado Kim, Vice Chair Tsutsui and members of the Senate Committee on Ways and Means. My name is Kalei Kailihiwa, Director, Ho'olako Like, of Kamehameha Schools. Thank you for this opportunity to testify regarding HB 1686 HD2 SD1 relating to charter schools.

We support the intent of this measure and want to retain a per pupil formula in the statute.

We strongly support equitable and fair funding for public charter schools and want to ensure that any mechanism intended to address funding issues will not result in reduced funding amounts. We look forward to positively engaging in public dialog to support charters.

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 works with 12 nonprofit tax-exempt organizations, including 'Aha Pūnana Leo, OHA, KALO and Ho'okāko'o Corporation, to assist a total of 14 start-up and 3 conversion charters with special projects, professional development, and technical assistance. Kamehameha Schools believes that these efforts provide more positive educational choices and ultimately enhances academic achievement and greater school engagement for Hawaiian students. Through these collaborations, Kamehameha Schools currently assists more than 3,200 students in eleven communities on 4 major islands, within the public education system.

Recent research conducted over the past three years shows that Hawaiian-focused charter schools are implementing positive educational strategies and make a difference to Hawai'i's public school landscape in the following ways:

- They demonstrate success in helping "at-promise" students jump-start academic momentum using rigorous place-based and project-based strategies;
- The schools provide relevant and rigorous education in ways that engage both Hawaiian and non-Hawaiian students;
- They cultivate values of environmental stewardship and civic responsibility among future leaders;
- They build a strong sense of 'ohana through caring and supportive student/teacher relationships;
- They enhance the well-being, family involvement, and economic sustainability of communities.

In summary, supporting and replicating the successful strategies found in Hawaiian-focused charter schools is a good way to invest in education that has potential benefits for the entire public school system.

To: The Honorable Donna Kim Mercado, Chair  
Members of the Senate Committee on Ways and Means

From: Lynn Fallin, Executive Director  
Ho'okako'o Corporation

John Colson, Chief Education and Executive Officer  
Waimea Middle School

Glen Kila, Administrator  
Kamaile Academy

Clarence DeLude, Administrator  
Kamaile Academy

Lydia Trinidad, Principal  
Kualapu'u School

Date: April 2, 2009

Time: 9:30 am

Location: State Capitol  
Room 211

Subject House Bill (HB) 1686 HD 2 SD 1 Relating to Charter Schools

The Ho'okako'o Corporation (HC) and its' partner conversion charter schools – Waimea Middle School (357 students), Kamaile Academy (712 students) and Kualapu'u School (375 students). Conversion charter schools are not under the state DOE jurisdiction and are directly governed by their local school boards. After DOE schools convert to charter status, the schools continue in their role as the public feeder school for the geographical community in which the school is located just like DOE schools. The conversion schools must accept all students within the public school service area.

HC supports the intent of HB 1686 HD 2 SD 1 to clarify roles and responsibilities and the funding formula calculations. HB 1686 HD2 SD 1 raises questions and concerns. The main questions and concerns are in Section 2 302 B-1(2), Section 4 302 B-8 and Section 5 302 B-12 (a) thru (f) as follows:

- 1) The current language in 302 B-1 (2), regarding the BOE and DOE in their roles as the SEA in relationship to the Charter School Review Panel, Charter School Administrative Office and the Local School Boards, is very broadly stated and will be wide open to differences in interpretation, especially the meaning and implications of the term "directives".
- 2) After review of all of Section 4 302 B-8 and Section 5 302 B-12 (a) – (f), it is not clear what the actual financial impact of what is being proposed to the current per pupil allocation when it is distributed to the schools. Therefore, it is very difficult for the schools to respond in good faith and responsibly to what is being proposed. During the 2008 legislative session, the charter schools received reductions in the per pupil allocation from about \$8150 per pupil for SY 2007-2008 to about \$7588 per pupil in SY

2008-2009. Further reductions to the allocation would be extremely detrimental to the at risk students that we serve.

**School Concerns:**

**Waimea Middle School (WMS)**

In SY 2006-2007, the state BOE made a decision to support Waikoloa Elementary School expansion on the Big Island from a K-5 school to a K-8 school. Waikoloa was a feeder school to WMS. WMS's enrollment has been reduced significantly due to the expansion. The Waimea school community is pleased that the students of Waikoloa now have a community school and do not have to commute to Waimea; however as a result of the K-8 expansion, WMS's student enrollment has been reduced from about 530 students in the first year of conversion in SY 2004-2005 and decreased about 70-80 students from each school year to about 280 students anticipated in SY 09-010. The reduction in student enrollment is forcing WMS to reduce its' budget and to make deep and painful cuts in faculty, staff and programs for students in SY 09-010. Further cuts will be extremely detrimental to the school being able to deliver services to its' students and fulfill the terms of the charter and meet NCLB requirements.

**Kamaile Academy (KA)**

KA's enrollment fluctuates dramatically during a school year because of the large number of houseless and homeless families and therefore it is very difficult to project the student enrollment. In addition to big fluctuations in enrollment, two of the five state's new homeless shelters and housing are located within the school's boundaries. HC is very concerned that the children that Kamaile serves need many more student support services i.e. enrichment activities and health and social services. KA is being very proactive in redesigning the school to meet the needs of the neediest of students and their families. Further reductions will seriously affect their plans.

**Kualapu`u School (KUU)**

When KUU was faced with NCLB sanctions and school reconstitution, KUU chose to convert to charter status. KUU become school in good standing after making NCLB AYP for two consecutive years in SY 2006-2007 and 2007-2008. Reductions erode KUU's ability to maintain its' excellent progress and its' ability to deliver services to the students it serves in very challenging economic times for the Molokai community. KUU employs 70 full and part time employees. The cuts may send a message to the school community and students that the hard work, commitment, performance and the positive results achieved by becoming an NCLB AYP in good standing do not matter.

**BACKGROUND**

Ho'okako'o Corporation is a private, non-profit organization established in 2002. Our mission is helping HC conversion chart schools reinvent themselves for the purpose of improving the academic achievement and personal growth of their students. Collaborating with communities, educators, and families, Ho'okako'o provides conversion charter schools with expertise and resources to improve student achievement.

HC was established with a partnership between HC's volunteer board of directors and Kamehameha Schools. The non-profit HC volunteer board serves as the school board for the conversion charter school. HC provides and/or brokers technical support in organizational change, instructional expertise, organizational systems and supports, policy and interface with major stakeholders. As an HC partner, KS has contributed technical support and funding. HC and the partner conversion charter schools leverage resources and support from many additional partners, including philanthropic foundations and trusts, government, unions, business and



family/community volunteers in order to benefit the conversion charter school as the school implements its plans..

As an education change agent, HC seeks partnerships with public school communities committed to implementing the following necessary conditions for conversion school success:

- Effective school leadership
- Capable teachers with high expectations and the skills to work together in focused learning communities
- Curriculum that is aligned, articulated, and integrated
- Parents and the greater community with a sense of ownership in the school and willingness to be part of the change process
- Personalized schools
- More time on instructional and co-curricular activities
- Data and results driven
- Supportive and effective policies and regulations

#### **Examples of School Outcomes/Results**

Overall each school has shown a trend of steady growth. Initial measures of success include:

##### **School Year 2006-07**

A growth in reading and math scores (at Kualapu'u); increased student attendance at Kualapu'u and Waimea; a decrease in the special education population due to improved identification, remediation, and curriculum (at Kualapu'u); new programs offered (at Kualapu'u and Waimea); greatly increased family involvement (Waimea); Waimea and Kualapu'u achieved NCLB AYP

##### **School Year 2007-08**

Kualapu'u met federal NCLB AYP targets for two consecutive years and was awarded school in good standing status.

HC, Waimea Middle School, Kamaile Academy and Kualapu'u School thank the legislature for the opportunity to provide information about HC and HC schools and to testify on this legislation.

Testimony to the Senate Committee on Ways and Means  
Hearing Date: Thursday, April 2, 2009  
9:30 a.m. – Conference Room 211

### Testimony on HB1686

Steve Hirakami

Director, Hawaii Academy of Arts and Science  
Director/Treasurer, Hawaii Charter Schools Network

Position: Support

To the honorable Senators Donna Mercado Kim and Shan S. Tsutsui, and other members of the WAM:

I am in “general” support of this bill because it separates out facilities financing by a calculation of a “portion” of department debt service. I realize the importance of somehow dealing with the facilities issue in the law but I still hold reservations about portions of the bill, specifically:

- Section 2. Section 302B-1 HRS “Local school board” means the autonomous governing body of a charter school that... (2) Possesses the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with board policies made in the board’s capacity as the state education agency, department directives made in the department’s capacity as the state education agency, and applicable federal and state laws *Being held in compliance with every board policy or department directive directly usurps the autonomy of local schools boards and the founding concepts of charter schools. A compromise would be to have an MOA between the parties to establish the types of policies and directives to be complied with. The board and department should also demonstrate what policies and directives were not followed in the past years, and what policies and directives could potentially be violated in the future?*
- 302B-3 Charter school review panel; establishment; powers and duties. (e) Notwithstanding the terms of members, the board may add panel members at any time and replace panel members at any time when their positions become vacant through resignation, through non-participation, [or] upon request of a majority of panel members [-], or upon termination by the board for cause. *The board appoints panel members and should leave it up to the panel to remove members by a majority vote and send it to the board for ratification as already provided by this law.*
- 302B-8(1)(B) A calculation showing the per-pupil funding based on a portion of the department’s debt service appropriation divided by the department’s actual enrollment that school year: *This sentence is accurate when you delete the words “a portion of”. Portion is too arbitrary and the original language included in past bills used the phrase: “all means of financing except federal funds” which would mean that the department’s debt service was in the formula.*
- 302B-12 Funding and finance (A) Include all general fund regular education cost categories, including comprehensive school support services,... *Limiting funding to general funds in all regular education cost categories will severely limit the amount of funds available and will severely reduce the comparative formula even more. Charters already are dealing with a 7% per pupil cut from SY 2007-08; projected enrollments for SY 2009-10 show another 9% per pupil cut in SY 2009-10, and with the use of only general funds in the formula, charters may even lose another 15.9% cut besides the ones already mentioned. This would result in a reduction of 32% over two school years. No state agency could operate with this*

kind of budget cut across the board. Restore the language: "all means of financing except federal funds".

- 302B-12 Funding and finance (C) Exclude fringe benefit costs and debt service.  
*The next paragraph specifically deals with the fringe benefit costs but neglects to relate debt service to the CSAO's budget request as mentioned in 302B8(1)(B). We need to keep language in the formula to address the facilities issue. In the paragraph following fringe benefits, it states: The legislature shall [make an appropriation based upon the budget request;] provide funding for charter schools based upon the requirements of this section; provided that the legislature [may] shall make additional appropriations for fringe, workers' compensation, and other employee benefits [-] and facility costs. Here, is the opportunity to insert the language to support that cost calculation:  
"Facilities costs are the department's debt service appropriation divided by the department's actual enrollment that school year."*
- 302B-12 (c) Federal funds received by the department for charter schools shall be transferred to the office for distribution to charter schools in accordance with the federal requirements. [~~If administrative services related to federal grants and subsidies are provided to the charter school by the department, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six and one half]~~ The department shall retain ? per cent of the charter school's federal grants and subsidies [-] as an administrative fee.  
*Charter schools receive various types of federal funding as part of a formula grant. Federal money in these grants are divided up per-pupil and sent to the CSAO (Charter Schools Administrative Office) for distribution to charter schools based on enrollment. If an automatic percentage were taken off the top for "administrative" fees, this would amount to a serious deduction to the educational programs impacted.  
In addition, the CSAO currently receives a small percentage of these federal funds for administration purposes (to assist with administration, assistance, and appropriation of these funds to the charter schools.) If "x" percent were automatically taken off the top by the department, where and how would those administrative funds be used?  
Besides stating that the department shall retain "x" per cent of the charter school's federal grants and subsidies... it is also stated that a charter school shall reimburse the department for an administrative fee in the amount of "x" percent of the charter school's federal grants and subsidies. This could be interpreted as in addition to the initial "x" percent retained by the department. This needs clarification.  
Furthermore, indirect cost applied to federal funds must be in compliance with federal regulations found in §§75.560-564. Grantees may receive reimbursement for allowable indirect costs under a grant award only if they have a current indirect cost rate approved by a cognizant agency of the Federal Government or an authorized State agency. A grantee's federally negotiated indirect cost rate is established for only a defined period of time (usually a grantee's accounting year) and must be renegotiated and updated on a regular basis (e.g., annually). This means that different indirect cost rates could apply to different budget periods of multi-year awards. Grantees in specific programs with legislation containing "supplement-not-supplant" (like Title I) provisions are subject to applying a "restricted" rate to the grants. The restricted rate is lower than the usual*

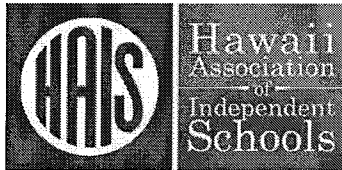
*negotiated indirect cost rate because the calculation excludes certain items of general management and fixed costs from the indirect cost rate charged to a grant. Sections 75.563 and 76.564-569 in EDGAR discuss restricted rates in more detail.*

- 302B-12 (d) (3) Retain the remaining ten per cent of a charter school's per-pupil allocation no later than ~~[January 1]~~ June 30 of each year as a contingency balance to ensure fiscal accountability ~~[,]~~ and compliance; provided that the panel may make adjustments in allocations based on noncompliance with ~~[federal and state reporting requirements,]~~ board policies made in the board's capacity as the state education agency, department directives made in the department's capacity as the state education agency, the office's administrative procedures, and board approved accountability requirements.

*Changing the allocation date to after the last day of school and the last day of the fiscal period makes absolutely no sense and shows a lack of fiscal responsibility to the charter school children in the State. Since the creation of EDN 600 in July 2004, 50% of a school's allocation based on the projected enrollment in May of that year was allocated on July 20, 40% of the allocation based on the final enrollment count on October 15 of each year was allocated on Nov 15, and the remaining 10% was distributed on January 1<sup>st</sup>. This is the only acceptable (and reasonable) allocation schedule that charters can work with.*

I think that the part of this bill that recognizes the specific need of charter schools to get some facility support is important. As you can see from my above testimony there are parts that are not in the best interests of charter school students, but in an effort to keep a funding mechanism alive, I hope that you will see a compromise position or at least bring this up for discussion with the office, panel, and charter school administrators and boards. Thank you for this opportunity to testify.

Steve Hiramami  
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808-965-3730



April 2, 2009  
9:30 a.m.  
Conference Room 211

TESTIMONY TO  
THE SENATE COMMITTEE ON WAYS AND MEANS

RE: HB 1686 HD2 SD1 – Relating to Charter Schools

Dear Chair Kim, Vice Chair Tsutsui, and Members of the Committee:

My name is Robert Witt, and I am executive director of the Hawaii Association of Independent Schools (HAIS). The Association represents 97 private and independent schools across our state, and is both a member of the Charter School Review Panel and an active participant in the local charter school community.

Our association supports House Bill 1686, House Draft 2, Senate Draft 1 – Relating to Charter Schools, which clarifies the functions, duties, and roles of the Charter School Review Panel in the administration and operation of charter schools, and improves fiscal and budgetary accountability.

HAIS appreciates the steps taken by the Legislature to improve the efficacy and efficiency of the administration and operation of Hawaii's charter schools via the clarifying amendments contained within HB 1686 HD2 SD1. We are also grateful for the Legislature's efforts to address the issue of equitable funding for charter schools, specifically through the implementation of a per-pupil formula to determine state funding allocations. We believe that the per-pupil method of funding charter schools is the best way to ensure that both future student population increases are properly addressed and charter school funding remains equitable in spite of any changes in school enrollment.

The Association encourages the Committee to pass this measure, as we believe that it will enable the charter schools of our state to further their growth and development and continue providing our keiki with unique educational opportunities and experiences. We are a strong supporter of charter schools and the diversity that they bring to our local education community and look forward to continuing to participate in constructive dialogue with the Legislature regarding their support.

Mahalo for this opportunity to testify.