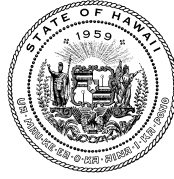


**HB 2267**

**Testimony**



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

Testimony of  
**Linda L. Smith**  
Senior Policy Advisor to the Governor

Before the  
**SENATE COMMITTEE ON WAYS & MEANS**

Tuesday, March 30, 2010, 9:30 AM  
State Capitol, Room 211

**HB 2267 HD1 PROPOSED SD1  
RELATING TO PUBLIC CHARTER SCHOOLS**

Chair Kim, Vice Chair Tsutsui, and members of the Committee:

HB 2267 HD1 Proposed SD1 makes changes to Hawaii's public charter school laws. The Administration proposes **amendments** to this bill that will improve public charter schools in the State.

First, the Administration appreciates the Senate's insertion of language to repeal the cap on the number of public charter schools allowed to operate in Hawaii. At this point in the legislative process, this is the only bill that is still alive that includes this key amendment. This change will ensure that Hawaii is competitive for Race to the Top federal funding. Our re-application is due on June 1, 2010.

The Administration also strongly supports the provisions in this bill that will: (1) create a charter reauthorization process to increase accountability; and (2) create a process by which public charter schools may utilize vacant facilities at Department of Education schools. These provisions are similar to proposals in the Administration-sponsored bill,

HB 2551, and are encouraged for adoption by the federal government (see attached federal guidance).

We oppose the amendments to sections 6 and 7 of the bill which would negatively impact public charter school funding processes and allocations. Specifically, we oppose:

- 1) Requiring the Governor to withhold ten percent of public charter schools' annual allocation until at least December 31 and after the Department of Budget and Finance updates the comparable per-pupil funding level based on October 15 enrollment counts. This creates an unnecessary delay and increases bureaucracy. The Charter School Administrative Office is taking steps to assist charter schools with formulating current enrollment counts.
  
- 2) Creating a charter school over-appropriation special fund. A new special fund is unnecessary and may not be self-sustaining. Also, the language in this section may give an incorrect impression that all public charter schools are over-funded, when in fact public charter schools have faced budget cuts *prior* to reductions being made to all state agencies due to the current economic crisis. In addition, this provision does not provide a mechanism for the State to address underfunding of public charter schools and only addresses instances of so-called excess funding.

In lieu of these provisions, we have attached proposed amendments that will ensure equitable per-pupil and facilities funding for public students who attend public charter schools.

Thank you for the opportunity to testify on this measure and for your consideration of our proposed amendments.

**Excerpt from the Race to the Top Application for Initial Funding**

**CFDA Number: 84.395A**

**(Pages 48-49)**

**“(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (40 points)**

The extent to which—

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;
- (ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;
- (iii) The State’s charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;
- (iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and
- (v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.”

## Proposed Amendments to the Funding Provisions in

### HB 2267 HD1 Proposed SD1

"SECTION . Section 302B-12, Hawaii Revised Statutes, is amended to read as follows:

**"§302B-12 Funding and finance.** (a) Beginning with fiscal year 2009-2010, and each fiscal year thereafter, the non-facility per-pupil funding [~~request~~] for charter school students shall not be less than the per-pupil amount to non-charter public schools in the department in the most recently [~~approved executive~~ enacted budget [~~recommendation~~] for the department, as set forth in paragraph (2); provided that:

(1) The per-pupil funding [~~request~~] shall include funding for projected enrollment figures for each charter school[+] and for proposed conversion and new start up charters over the biennium budget period; and

(2) The per-pupil [~~request~~] funding for each regular education and special education student shall:

(A) Include all regular education cost categories, including comprehensive school support services but excluding special education services; provided that [~~special education services are provided and funded by~~] the department[+] shall provide and fund special education services to students enrolled in charter schools on the same basis as such services are provided to special education students enrolled in non-charter public schools; provided further that if the department fails to provide special education services to special education services at charter schools, the department shall transfer directly to a charter school any federal or state aid attributable to a special education student attending a charter school;

(B) Include all means of financing [~~except federal funds~~], as [~~reported~~] appropriated in the most [~~recently approved executive~~] recently enacted department of education budget [~~recommendations for the department; provided that in preparing the budget the executive director shall include an analysis of the proposed budget in relationship to the most recently published department consolidated annual financial report~~]; and

(C) Exclude fringe benefit costs and debt service.

(D) Include any federal or state aid attributable to a student for the provision of and payment for special education services in proportion to the level of services for such student that the public charter school directly provides; provided that a charter school and may contract with the department for alternate arrangements for the provision and payment for special education services, the payment for which shall be excluded

(b) Fringe benefit costs for charter school employees, regardless of the payroll system utilized by a charter school, shall be included in the department of budget and finance's annual budget request~~[-]~~, consistent with the treatment of fringe benefits costs of non-charter public schools. No fringe benefit costs shall be charged directly to or deducted from the charter school per-pupil allocations.

The legislature shall make an appropriation based upon the budget request; provided that the legislature may make additional appropriations for fringe, workers' compensation, and other employee benefits and facility costs. The legislature may make additional appropriations for other requested amounts that benefit charter schools.

The governor, pursuant to chapter 37, may impose restrictions or reductions on charter school appropriations similar to those imposed on other public ~~[schools,]~~ education appropriations.

(c) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. The department shall provide the office with all state-level federal grant proposals submitted by the department that include charter schools as potential recipients and timely reports on state-level federal grants received for which charter schools may apply or are entitled to receive. Federal funds received by the department for charter schools shall be ~~[transferred to the office for distribution]~~ distributed 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 per cent of the charter school's federal grants and subsidies.

Any charter school shall be eligible to receive any supplemental federal grant or award for which any other public

school may submit a proposal, or any supplemental federal grants limited to charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to these supplemental grants, 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 per cent of the supplemental grant for which the services are used.

All additional funds generated by the local school boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the local school boards.

(d) To enable charter schools to access state funding prior to the start of each school year, foster their fiscal planning, and enhance their accountability, ~~[the office]~~ charter schools shall~~[+]~~ receive:

(1) ~~[Provide fifty]~~ Fifty per cent of a charter school's per-pupil allocation based on the charter school's projected student enrollment no later than July 20 of each fiscal year; provided that the charter school shall have submitted ~~[to the office]~~ a projected student enrollment no later than May 15 of each year;

(2) ~~[Provide an]~~ An additional forty per cent of a charter school's per-pupil allocation no later than November 15 of each year; provided that the charter school shall have submitted ~~[to the office]~~:

(A) Student ~~[enrollment]~~ enrollments as verified on October 15 of each year; provided that the student enrollment shall be verified on the last business day immediately prior to October 15 should that date fall on a weekend; and

(B) An accounting of the percentage of student enrollment that transferred from non-charter public schools established and maintained by the department; ~~[provided that these accountings shall also be submitted by the office to the legislature no later than twenty days prior to the start of each regular session; and]~~

(3) Ensure the appropriate transfer between EDN 100 (school-based budgeting) and EDN 600 (charter schools) of those

per-pupil amounts that reflect students transferring between public charter schools and public non-charter schools; and

~~[(3) Retain no more than]~~ (4) Release the remaining ten per cent of a charter school's per-pupil allocation no later than [June] March 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 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 the office's administrative procedures~~[, and board approved accountability requirements]~~.

(e) The department shall provide appropriate transitional resources to a conversion charter school for its first year of operation as a charter school based upon the department's allocation to the school for the year prior to the conversion.

(f) No start-up charter school or conversion charter school may assess tuition."



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. 2267, H.D. 1, PROPOSED S.D. 1

March 30, 2010

RELATING TO PUBLIC CHARTER SCHOOLS

House Bill No. 2267, H.D. 1, Proposed S.D. 1: 1) requires the Department of Education to make vacant public school facilities available for use by charter schools; 2) requires the Charter School Review Panel to adopt criteria for the reauthorization of charter schools and to reauthorize each charter school every four years; 3) requires the charter schools to report operational and instructional expenditures to the Charter School Review Panel; 4) amends the funding formula for charter schools; and 5) repeals the cap on the number of charter schools.

House Bill No. 2267, H.D. 1, Proposed S.D. 1, also establishes an “over-appropriation special fund” that is intended to prevent the over-allocation of general funds to the charter schools. The proposed special fund would be capitalized by any excess amount appropriated to the charter schools after the Department of Budget and Finance updates the comparable per pupil funding level (between the charter schools and the Department of Education) based on the October 15 enrollment count. The excess funds would be allocated to the charter schools if their appropriation was insufficient to ensure comparable funding with the Department of Education. Any special fund balance in excess of \$5,000,000 would lapse to the credit of the general fund.

As a matter of general policy, this department does not support any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether the bill meets any of these criteria.

Further, we do not support the “setting aside” of general funds in special fund accounts. This reduces the availability of general funds for other critical needs. Any excess funds should lapse to the general fund.

**WRITTEN TESTIMONY ONLY**

**Date:** 03/30/2010

**Committee:** Senate Ways and Means

**Department:** Education

**Person Testifying:** Kathryn Matayoshi, Interim Superintendent of Education

**Title of Bill:** HB 2267, HD1, SD1 Proposed RELATING TO PUBLIC CHARTER SCHOOLS.

**Purpose of Bill:** Requires the department of education to make available vacant school facilities or portions of school facilities for use by charter schools. Requires the charter school review panel to compile a prioritized list of charter schools that wish to use vacant school facilities or portions of school facilities. Makes changes to charter school funding. Requires the charter school review panel (CSRP) to determine a clear process with rigorous criteria for the reauthorization of charter schools. Requires the CSRP to reauthorize charter schools no later than four years following the initial issue of the charter, and every four years thereafter. Requires the charter school administrative office (CSAO) to withhold funds for its operational expenses, subject to certain requirements. Requires the CSAO to report annually to the CSRP individual and aggregate operational and instructional expenditures of charter schools. Requires per-pupil allocation checks paid by the CSAO to individual charter schools to be co-signed by the executive director of the CSAO and an agent of the CSRP. Repeals the cap on the number of charter schools. Effective 7/1/2050. (SD1)

**Department's Position:** The Department of Education requests two amendments to proposed SD 1.

The first amendment is to section 2 of proposed SD 1, to clarify that the Department of Education may elect to retain the facilities of a DOE school that is scheduled to be closed, for use for other educational purposes, even if one or more charter schools have applied to the charter school

review panel to use the to-be-closed school. The DOE currently rents commercial space for office use, and would like the opportunity to relocate and consolidate its scattered offices to schools that will be closed, both to reduce or eliminate the need to rent commercial space and to increase its efficiency. The requested amendment is to insert the following language after the word "facilities" on line 10 of page 5 -- "or if the department determines that it will continue to use all or portions of the facilities for educational purposes."

The second amendment is to section 7 of proposed SD 1, to clarify that charter school students who participate in the DOE's adult education or after-school plus programs are required to pay the same fees as non-charter school students. Proposed SD 1 appears to require, in Section 7(a)(2)(A) on page 19, the DOE to provide and fund adult education and the after-school plus program services to public charter schools. The general fund support for these two programs has been significantly reduced, and it is possible that participants will be required to pay new fees or higher fees to access program services. The requested amendment is to insert the following paragraph after line 4 of page 20 -- "Charter school students participating in either department-funded adult education programs or department-funded after school plus programs shall pay the same fees as non-charter school participants."

Thank you for your consideration of our testimony.

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Senate Committee on Ways and Means

DATE: Tuesday, March 30, 2010  
TIME: 9:30 AM  
PLACE: Conference Room 211

***We are commenting on HB 2267 HD1, relating to public charter schools, on behalf of the Hawaii Charter School Network.***

The Hawaii Charter Schools Network (HCSN) represents the unified voice of all 31 public charter schools in our state. We thank the Committee for this opportunity to speak on their behalf.

HCSN appreciates the work of this committee, its staff and the legislature to support Hawaii's public charter schools.

We have supported amendments to Hawaii's charter school laws that are in line with the expectations of the Obama Administration's Race to the Top (RTT) program and are expected to be in alignment with future federal funding opportunities. With continued work, Hawaii could better position itself to successfully secure an expected \$75million dollars in federal education support.

RTT validates what charters have been saying for years: provide equitable resources, including facilities support, and in return charters schools will better be able to achieve academic success benefiting kids. Charter schools must provide accountable and transparent governance and we are committed to doing so on behalf of Hawaii's public charter school students.

We support the intent of HB 2267 HD1. However, we note that with respect to the reconciliation of student population numbers that "conversion" schools, for example, are required to accept all public students in their geographic district and may be unable to control whether they have more students than projects. We are also concerned about the potential elimination of access to adult education funds and want to ensure that implementation of this provision is consistent with the legislature's intent. We greatly appreciate the opportunity for a meaningful dialog on Hawaii's public charter schools and look forward to working with the legislature further.

*On behalf of the Hawaii Charter School Network, mahalo for the opportunity to testify.*

Sincerely,

Alapaki Nahale-a  
Executive Director  
Hawaii Charter Schools Network

Curtis Muraoka  
VP of Legislative Affairs  
Hawaii Charter Schools Network

*Community. Choice. Quality.*

To: Senator Donna Kim Mercado, Chair

Senator Shan Tsutsui, Vice Chair

Senate Committee on Ways and means

From: Lynn Fallin, Ho'okako'o Corporation

Date: Tuesday, March 30, 2010 at 9:30 pm

Subject: HB 2267 HD1

**SUPPORT FOR THE INTENT OF HB 2267 HD 1 Relating to Charter Schools:** Ho`okāko`o Corporation supports the intent.

► HC agrees that accountability is important for all of Hawaii's public schools including charter schools.

●HC and its' partner conversion schools are committed to being fiscally responsible and achieving the goals leading to positive changes in student outcomes, increased parent and community involvement , quality teaching and effective school leadership. HC works closely with the schools to guide, monitor and support each of the schools.

Examples of fiscal accountability:

●School s hire School Business Managers and work closely with the HC Administrative Services Manager and a CPA firm (Ikeda and Wong) to receive guidance and technical assistance and support.

●An annual financial audit by a CPA firm (Nishihama and Kishida) is required to be conducted of each school .

Examples of academic innovation and change:

●Expanded learning time

●PreK

●A new teacher evaluation program

► **Concerns About HB 2267 HD 1**

As conversion charter schools, like their DOE counterparts, the schools continue as the public community feeder school for the students living in the geographical area after becoming conversion charter schools. Like other public DOE buildings, conversions also serve the broader public as emergency shelters, election voting locations and other public facility services that state DOE facilities

may need to provide. We hope that any amendments to 302A will not jeopardize or diminish a conversion school's role and capacity to serve as the public feeder community school.

► **Background About the Ho'okako'o Corporation:** HC's mission is to help schools reinvent themselves for the purpose of improving the academic achievement and personal growth of their students. The Ho'okako'o Corporation(HC) is implementing Act 2 (2002) that enables a Hawaii based nonprofit corporation to operate and manage conversion charter schools and the nonprofit board to serve as the local school board of the school. HC collaborates with communities, educators, and families to provide conversion charter schools with expertise and resources to improve student success.

● HC was established in late 2002 and began operating in 2003. Three partner schools converted with HC - Waimea Middle School on the Island of Hawaii in 2003, Kualapu`u School on Molokai in 2004 and Kamaile Academy in Leeward Oahu in 2007. The three schools are located in communities of significant socio-economic need and are Title 1 schools. The total enrollment of the three schools is about 1500 students. As conversion charter schools, like their DOE counterparts, the schools continue as the public community feeder school and also serving the broader public as emergency shelters, election voting locations and other public facility services that state DOE facilities may need to provide.

Thank you for the opportunity to testify on HB 2267 HD 1.

**From:** [Nina K Buchanan](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 2267 Testimony  
**Date:** Monday, March 29, 2010 1:29:16 PM

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COMMITTEE ON WAYS AND MEANS: Senator Donna Mercado Kim, Chair Senator Shan S. Tsutsui, Vice Chair

HEARING DATE: Tuesday March 30, 2010 9:30am Conference Room 211

Aloha Honorable Members of Committee on Ways and Means,

I am an educational psychologist and one of the founders of the award-winning West Hawaii Explorations Academy Public Charter School. I have served as a member of the Charter School Review Panel since its inception. I am testifying as an individual so the thought expressed below have not been endorsed by the Panel or the Explorations Academy Local School Board.

That said, I applaud your efforts to remove barriers to charter school success while at the same time holding charter schools more accountable for academic results.

1. Facilities are a continuing problem for charter schools. I support making available vacant state sites for charter schools in a fair and equitable manner.
2. The CSRP has spend a great deal of time creating high quality and coherent assurance, application, annual self-evaluation and multi year review processes. The problem is that the Panel consists of 12 volunteers, most of whom are also employed full time. Without additional staff, it would be nearly impossible for the Panel to conduct multi-year reviews at four year intervals for all 31 charter schools (7 - 8 schools per year). Additionally, the Legislature has encouraged start-up charter schools to become accredited. Full accreditation is usually for 6 years, not 4. It would be helpful if the first "reauthorization" of a charter school would be 6 years. This would cut that yearly workload for the Panel and provide charter schools with enough time to implement their curricula. Please note that each charter school submits an annual self-evaluation report that is received and reviewed by the Panel.
3. I support repealing the cap on the number of charter schools. This would not immediately result in new charter schools because the Panel has in place a rigorous application process that will take approximately 18 months from submission of a letter of intent to the granting of a charter.

Thank you for your time and attention to to improving education in Hawaii.

Nina K. Buchanan  
University of Hawaii Hilo