



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

Wednesday, February 1, 2012, 2:00 PM  
State Capitol Room 309

Testimony of  
NEIL ABERCROMBIE  
Governor, State of Hawaii

To the House Education and Labor and Public Employment Committees  
Representative Roy Takumi, Committee on Education Chair  
Representative Della Au Belatti, Committee on Education Vice Chair  
Representative Karl Rhoads, Committee on Labor and Public Employment Chair  
Representative Kyle Yamashita, Committee on Labor and Public Employment Vice Chair

HB 2010 - Relating to Charter Schools

Chairs Takumi and Rhoads, Vice Chairs Belatti and Yamashita, and members of the Committee:

Thank you for the opportunity to testify in support of HB 2010.

HB 2010 repeals chapter 302B, HRS and establishes a new chapter governing charter schools based on the recommendations of the Charter School Governance, Accountability, and Authority Task Force established by Act 130 (Session Laws of Hawaii 2011). My education advisor, Tammi Chun, participated in the Task Force and kept me apprised of the developments to strengthen governance and accountability for our public charter schools.

All schools should be encouraged and empowered to innovate in order to reach our high statewide standards and meet the unique needs of students. Our public charter schools play an important role in fostering innovation in order to improve learning for our children.

Now is time for HB 2010. The genesis of state's charter school law was in 1994, and the law under which most charters are authorized was passed in 1999. More than a decade later, Hawaii's charter schools and the status of the charter movement nationally have evolved. As evident by recent appeals by charter schools to the Board of Education, defining charter authorizers' authority, the process and requirements to establish quality charter schools, and clear expectations for performance and accountability are critical to ensuring quality public educational opportunities. Furthermore, the December 2011 "Performance Audit of the

Hawaii Public School System” by the State Auditor raised serious concerns about oversight of accountability for academic performance of all charter schools as well as financial and ethical practices at some charter schools; disturbingly, the report was subtitled, “Autonomy Without Accountability.”

Charter schools can be catalysts for innovation and improvement for all of our public schools as well as provide quality opportunities for children who attend charter schools. However, concerns about accountability—for academic, personnel, or financial matters—undermine public and parental confidence in the appropriateness of autonomy granted to the publicly funded institutions.

HB 2010 incorporates the lessons learned, best practices, and the National Alliance for Public Charter Schools “Model Law.” I support HB 2010 because it clarifies relationships and responsibilities of the parties seeking to develop, support and review our public charter schools. It also aligns accountability and authority among the entities responsible for oversight of charter schools. Furthermore, HB 2010 eliminates the cap on the number of charter schools that may be authorized. I applaud the Task Force and the Legislature for being open to more quality charter schools. Like other public schools, charter schools should be held accountable for their results and expected to share and replicate successes. We should encourage and nurture schools that produce successful results for students, and charter schools have an important role in this mix.

Thank you for your consideration.

**belatti2 - Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 4:09 PM  
**To:** EDNtestimony  
**Cc:** state.procurement.office@hawaii.gov  
**Subject:** Testimony for HB2010 on 2/1/2012 2:00:00 PM  
**Attachments:** HB2010\_Testimony\_02-01-12.pdf

Testimony for EDN/LAB 2/1/2012 2:00:00 PM HB2010

Conference room: 309  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Aaron Fujioka  
Organization: State Procurement Office  
E-mail: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
Submitted on: 1/31/2012

Comments:



**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
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TESTIMONY  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
HOUSE COMMITTEES  
ON  
EDUCATION  
and  
LABOR & PUBLIC EMPLOYMENT

February 1, 2012

2:00 PM

HB 2010

RELATING TO CHARTER SCHOOLS.

Chair Takumi and Rhoads, Vice-Chair Belatti and Yamashita, and committee members, thank you for the opportunity to testify on HB 2010. This bill establishes a new chapter governing charter schools, and includes an exemption from HRS chapter 103D, Hawaii Public Procurement Code (Code), for charter schools, their governing board, their commission and authorizer. The State Procurement Office opposes this exemption.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with HRS chapter 103D conveys a sense of disproportionate equality in the law's application.

The exemption language on page 23, paragraph (d), lines 8 to 17, and page 53, paragraph (b), lines 8 to 18 should be deleted.

**belatti2 - Kate**

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**From:** Kenyon Tam [kenyon@hcsao.org]  
**Sent:** Tuesday, January 31, 2012 12:57 PM  
**To:** EDNtestimony  
**Subject:** Testimony for Feb. 2 EDN/LAB Joint Committee Meeting on HB2010 and HB2008  
**Attachments:** 2012-02-01 EDN-LAB Testimony HB2010 & HB2008.pdf

Aloha Chairs Takumi and Rhoads, Vice Chairs Belatti and Yamashita, and Members of the Committees,

Please accept the attached testimony for tomorrow's joint committee meeting.

Mahalo,

*Kenyon Tam*

Communications and Legislative Coordinator  
**Hawaii Charter School Administrative Office**  
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NEIL ABERCROMBIE  
GOVERNOR



ROGER MCKEAGUE  
EXECUTIVE DIRECTOR

STATE OF HAWAII  
CHARTER SCHOOL ADMINISTRATIVE OFFICE  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
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FOR: HB2010 Relating to Charter Schools  
HB2008 Relating to Charter Schools

DATE: Wednesday, February 1, 2012

TIME: 2:00 p.m.

COMMITTEE(S): House Committee on Education  
House Committee on Labor & Public Employment

ROOM: Conference Room 309

FROM: Roger McKeague, Executive Director  
Charter School Administrative Office

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#### **Testimony in support of the intent and goals of HB2010 and HB2008**

Chairs Takumi and Rhoads, Vice Chairs Belatti and Yamashita, and Members of the Committees:

Aloha, I am Roger McKeague, Executive Director of the Charter School Administrative Office (CSAO).

The CSAO actively participated in the Charter School Governance, Authority, and Accountability Task Force (CSGTF) established by Act 130/2011 with myself serving as a member on the task force. The CSAO supported the intent and goals of the CSGTF, and we now support the intent and goals of HB2010 and HB2008 (the result of the CSGTF) to increase the autonomy and accountability for charter schools.

However, we do have a concern. While there are some responsibilities that could be moved to the governing board and charter school level as discussed in the CSGTF, there are certain CSAO functions that need to be maintained as some level. Centralizing certain functions is often times more efficient and in many cases, necessary, and some charter schools – and even some departments and state offices – may not have the capacity to effectively carry them out.

There are certain parts of HB2010 that we strongly support such as providing the Commission with authorizer staff support. The current operations of the statewide authorizer are unsustainable without support.

We are currently going through the “weeds” of the bills as this process goes forward, and we will be putting forth more detailed testimony as this major rewrite of the charter school law requires in depth analysis. Thank you for this opportunity to testify.

**belatti2 - Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 12:56 PM  
**To:** EDNtestimony  
**Cc:** ethics@hawaiiethics.org  
**Subject:** Testimony for HB2010 on 2/1/2012 2:00:00 PM  
**Attachments:** HB 2010 Testimony.pdf

Testimony for EDN/LAB 2/1/2012 2:00:00 PM HB2010

Conference room: 309  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Hawaii State Ethics Commission  
Organization:  
E-mail: [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org)  
Submitted on: 1/31/2012

Comments:





**HAWAII  
STATE  
ETHICS  
COMMISSION**

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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**MEMORANDUM**

**DATE:** January 31, 2012

**TO:** The Honorable Roy M. Takumi, Chair  
The Honorable Della Au Belatti, Vice Chair  
House Committee on Education  
State Capitol, Room 331  
415 South Beretania Street  
Honolulu, Hawaii 96813

**FROM:** Hawaii State Ethics Commission

**SUBJECT:** SB 2010, Relating to Charter Schools

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**Testimony from the Hawaii State Ethics Commission:**

Written Testimony to: House Committee on Education  
House Committee on Labor and Public Employment

Hearing Date and Time: Wednesday, February 1, 2012; 2:00 p.m.

Measure Number: SB 2010, Relating to Charter Schools

Number of Copies: 1 copy via Web page



# HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

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February 1, 2012

The Honorable Roy M. Takumi, Chair  
The Honorable Della Au Belatti, Vice Chair  
House Committee on Education  
Hawaii State Capitol, Room 331  
415 South Beretania Street  
Honolulu, Hawaii 96813

The Honorable Karl Rhoads, Chair  
The Honorable Kyle T. Yamashita, Vice Chair  
House Committee on Labor and Public Employment  
Hawaii State Capitol, Room 326  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **Testimony on HB No. 2010, Relating to Charter Schools**

Hearing: Wednesday, February 1, 2012, 2:00 p.m.  
State Capitol, Conference Room 309

Written Testimony From: Hawaii State Ethics Commission

The Honorable Roy M. Takumi, Chair; The Honorable Della Au Belatti, Vice Chair;  
and Honorable Members of the House Committee on Education:

The Honorable Karl Rhoads, Chair; The Honorable Kyle T. Yamashita, Vice Chair;  
and Honorable Members of the House Committee on Labor and Public Employment:

Thank you for the opportunity to testify on House Bill 2010, Relating to Charter Schools. The State Ethics Commission takes no position with respect to the bill's governance structure for Hawaii's charter schools. The Ethics Commission, however, requests that the legislature clarify its intent whether the state entities created by the bill, including the public charter schools, the Public Charter School Commission, the governing boards, and their respective employees and members, are subject to and required to comply with the State Ethics Code, chapter 84, Haw. Rev. Stat. The Ethics Commission also respectfully offers certain amendments to the bill to more clearly reflect the legislature's intent.

1. **Are Charter Schools and Charter School Employees Subject to the State Ethics Code**

It is the Ethics Commission's position that, in accordance with the current charter school law, chapter 302B, Haw. Rev. Stat., public charter schools and their employees are subject to and required to comply with the State Ethics Code.<sup>1</sup> The Ethics Commission's position, however, has been challenged, based upon, among other things, section 302B-9, Haw. Rev. Stat. That section provides that charter schools are exempt from "state laws in conflict with this chapter."

The bill, at § -25, contains language substantively identical to section 302B-9. In addition, § -12(f) of the bill, similar to the existing charter school law,<sup>2</sup> requires charter schools to develop "ethical standards of conduct, pursuant to chapter 84." It is unclear whether the legislature intends that the "ethical standards of conduct" to which charter school employees must adhere are in addition to or in lieu of the State Ethics Code. In other words, the Ethics Commission is uncertain whether, by requiring charter schools to develop "ethical standards of conduct," the legislature intends to exempt charter schools and their employees from the State Ethics Code.

If the legislature's intent is that charter schools and charter school employees are subject to and must comply with the State Ethics Code, like every other state employee, the Ethics Commission strongly recommends that the intent be reflected in the bill. Specifically, to avoid any confusion about whether the State Ethics Code applies to charter schools and their employees, the Ethics Commission suggests that § -25 be amended to read as follows:

**§ -25 Exemptions from state laws.** (a) Charter schools and employees of charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

- (1) Collective bargaining under chapter 89; provided that:
  - (A) The exclusive representatives as defined in chapter 89 and the governing board of the charter school may enter into supplemental agreements that contain cost and noncost items to facilitate decentralized decision-making;

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<sup>1</sup> The State Ethics Code applies to all state employees, with the exception of judges. For purposes of the ethics code, an "employee" is defined as, "any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State . . . ." Haw. Rev. Stat. §84-3.

<sup>2</sup> See Haw. Rev. Stat. § 302B-7(f) (Supp. 2011).

- (B) The agreements shall be funded from the current allocation or other sources of revenue received by the charter school; provided that collective bargaining increases for employees shall be allocated by the department of budget and finance to the charter school's authorizer for distribution to the charter school; and
- (C) These supplemental agreements may differ from the master contracts negotiated with the department;
  - (2) Discriminatory practices under section 378-2; [and]
  - (3) Health and safety requirements[.]; and
  - (4) Standards of Conduct, chapter 84.

If, however, the legislature's intent is to exempt charter schools and charter school employees from the State Ethics Code, the Ethics Commission suggests that the bill be amended to specifically reflect that intent:

**§ -25 Exemptions from state laws.** (a) Charter schools and employees of charter schools shall be exempt from chapters 84, 91 and 92 and all other state laws in conflict with this chapter, except those regarding: . . . .

**2. Are the Members of the Public Charter School Commission and Governing Boards Subject to the State Ethics Code**

As with charter schools and their employees, the Ethics Commission requests that the legislature clarify whether the members of the Public Charter School Commission, established in § -3 of the bill, and the members of the charter school governing boards, established in § -12 of the bill, are subject to the State Ethics Code. Currently, the Ethics Commission considers both the members of the Charter School Review Panel, the predecessor to the Public Charter School Commission, and the members of the local school boards, the predecessor to the governing boards, to be "employees" as defined in the State Ethics Code, subject to the requirements of the statute.

The bill requires the Public Charter School Commission and the governing boards to develop operating procedures that include "conflict of interest procedures"<sup>3</sup> and policies "consistent with ethical standards of conduct, pursuant to chapter 84,"<sup>4</sup> respectively.

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<sup>3</sup> § -3(i).

<sup>4</sup> § -12(f).

State agencies, such as the Public Charter School Commission and the governing boards, may implement their own conflict of interest policies and other ethical standards of conduct; however, if the employees and members of the Public Charter School Commission and the governing boards are subject to the State Ethics Code, their conduct must, at a minimum, comply with the State Ethics Code's requirements. Stated differently, absent statutory language specifically exempting an agency and its employees from the State Ethics Code, state agencies cannot adopt conflict of interest policies or ethical standards of conduct which are less stringent than and in conflict with those established by the State Ethics Code.

Because of the potential confusion created by the bill's requirement that the Public Charter School Commission and the governing boards develop procedures and policies relating to areas presently addressed in the State Ethics Code, the Ethics Commission requests that the legislature specifically indicate in the bill whether the State Ethics Code applies to the Public Charter School Commission, the governing boards, and their respective employees and members.

If the legislature's intent is that the Public Charter School Commission and its members and employees are subject to the State Ethics Code, the Ethics Commission suggests that § -3(a) of the bill be amended to state:

(a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be placed within the department for administrative purposes only. Notwithstanding section -25 and any law to the contrary, the commission, its members and employees of the commission shall be subject to chapters 84 and 92.

In addition, the Ethics Commission suggests that § -3(i) relating to the Public Charter School Commission be amended as follows:

(i) The commission shall establish operating procedures that shall include conflict of interest procedures consistent with chapter 84 for any member whose school of employment or governing board is before the commission.

If the legislature's intent is to exempt the Public Charter School Commission, the governing boards and their members and employees from the State Ethics Code, the Ethics Commission suggests that the § -3(a) of the bill be amended to state:

(a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be

placed within the department for administrative purposes only. The commission, its members and employees of the commission shall be exempt from chapter 84. Notwithstanding section -25 and any law to the contrary, the commission shall be subject to chapter 92.

With respect to the governing boards, if the legislature's intent is that the State Ethics Code applies to the boards and their members, the Ethics Commission recommends the following amendment to § -12(f):

(f) Charter schools and their governing boards shall develop internal policies and procedures consistent with ethical standards of conduct, pursuant to chapter 84. Any law to the contrary notwithstanding, the governing boards and their members shall be subject to chapter 84.

If, however, the governing boards and their members are intended to be exempt from the State Ethics Code, the Ethics Commission suggests that § -12(f) be amended to state:

(f) Charter schools and their governing boards shall develop internal policies and procedures consistent with ethical standards of conduct, pursuant to chapter 84. Governing boards and their members shall be exempt from and not subject to chapter 84.

Thank you for the Committee's consideration of the Ethics Commission's testimony on HB No. 2010.



**HB 2010**  
**RELATING TO CHARTER SCHOOLS**  
**COMMITTEE ON EDUCATION**

February 1, 2012

2:00 p.m.

Room 309

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The Office of Hawaiian Affairs **SUPPORTS** HB2010, which establishes a new chapter governing charter schools based on the recommendations of the Charter School Governance, Accountability, and Authority Task Force ("Task Force") established by Act 130. OHA commends the Task Force and its many volunteer members for the hard work and effort they put into producing the recommendations that created the new chapter.

While the Task Force looked solely at governance, this new chapter offers an opportunity to revisit the problem of facilities. The National Alliance for Public Charter Schools' new model law recognized that "what is clear from the first 18 years of public charter school movement is that there is not a 'silver bullet' to resolving charter's facilities challenges. Instead, states will likely have to implement several 'silver bullets' in order to slay the facility beast." The model law goes on to suggest several approaches to supporting public charter school facility needs, including per-pupil facilities allowances, a public charter school facility grant program, a public charter school facility revolving loan program, bonding authority, and a credit enhancement fund. The Task Force relied heavily and wisely upon this model law, which also provides statutory language for fair facility funding that can be considered by the legislature for insertion into this proposed chapter governing charter schools.

Again, OHA supports HB2010 but urges consideration of model law language on how to conquer the "facility beast." Mahalo nui for the opportunity to present this testimony.



**HAWAII STATE TEACHERS ASSOCIATION**  
*Teaching Today for Hawaii's Tomorrow*  
*Teaching Today for Hawaii's Tomorrow*

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**Wil Okabe**  
President

**Karolyn Mossman**  
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**Joan Kamila Lewis**  
Secretary-Treasurer

**Alvin Nagasako**  
Executive Director

## TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION

RE: HB 2010-- RELATING TO CHARTER SCHOOLS.

Wednesday, February 1, 2012

WIL OKABE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Takumi and Members of the Committee:

The Hawaii State Teachers Association opposes HB 2010 in its current form. We have many concerns and would still ask that a meeting with Labor representatives be held as you stated in your Charter Task Force meetings. HSTA was not given the opportunity nor were our Charter School teachers allowed to weigh in on proposed changes to the law. Our teachers are the ones who work under the conditions of HRS 302B.

The proposed legislation repeals HRS 302B and replaces it with new language and makes substantive changes.

- We oppose the elimination of 302B-4, which caps the number of new start-up charters and conversion charters. We assert the revamping of the charter school laws were driven greatly by mistakes made in charter school practices and the lack of accountability. It would be ill-advised to lift the caps on the number of start-up and conversion charters without first ensuring that the new laws accomplish its intended results. If the charter school law is to be amended, it would be better to allow law to be implemented, monitored, assessed, and reported to the legislature after a period of time before any caps are lifted.
- The funding limitations have already greatly impacted existing public charter schools. By adding more public charters at a time when existing charters are struggling financially would only dilute the limited and scarce resources available to them



- We oppose the establishment of a new public charter school commission that does not ensure teaching professionals are part of the commission.
  - The new law eliminates designation of all stakeholders, including teachers, as currently provided under 302B-3. How can a policy body not include the practitioners? Teachers know first-hand what is important for educating our children.
  - The new law shifts emphasis on fiscal and organizational requirements for members of the new commission, and deemphasizes knowledge and expertise in education.
  
- We oppose the elimination of requirements under HRS 302B-7, which defines stakeholders and ensures equitable representation. This is such a major policy shift away from decentralizing local school board governance, and could lead to schools making decisions based more on finances, and less on educational needs.
  - Eliminating teachers as required representatives on a local school board shuts out the voice of teachers. Similar to the proposed commission, a public charter school governing board needs to ensure that teaching professionals are part of the school governance. Teachers are the professionals that have first-hand experiences with students and the curriculum.
  
- We are very concerned about the weakening of employee rights and recommend the section dealing with “employees rights” be strengthened to include the requirement that all Charters properly recognize the exclusive representative of each bargaining unit for collective bargaining purposes.
  - We also believe the law should explicitly state that all charters shall comply with all applicable collective bargaining laws, and not just those related to safety and health.
  
- We support the establishment of performance contracts for a set period of time. And we support many of the reforms that ensure greater accountability and transparency.
  
- We believe there should be a requirement that any start-up or conversion charter school clearly demonstrate in its financial plan the ability to sustain costs related to personnel. With Laupahoehoe, it became clear their proposed budget cannot sustain existing salary levels, and would only be able to attract entry level teachers without even a teaching degree.

- We believe there needs to be a requirement that any conversion charter school be required to demonstrate that it worked collaboratively with the existing school personnel of teachers, administrators, and support staff. This did not happen at Laupahoehoe, where teachers were never invited to participate in the conversion process. Yet the Board of Education chose to grant the charter.

We are disappointed and discouraged that the Charter School Task Force did not have anyone from labor participating. We are concerned that there was no follow-up to invite labor to review proposed changes to Charter Law and its collective bargaining implications despite statements that there would be such discussions.

HSTA has many more concerns about proposed changes to 302B and would like you to allow more time for us to weigh in on other areas of concern. We also ask that you allow the teachers who are delivering the services to the students to be allowed to give you feedback on your proposed changes. The language of your bill could be difficult for some people to interpret. It is quite detailed. We hope you will give all stakeholders time to give you quality input and feedback before your committee does decision making on this bill.

As it currently stands, HSTA strongly opposes HB 2010.

Thank you for this opportunity to provide testimony.

**belatti2 - Kate**

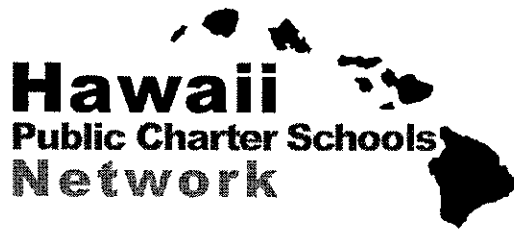
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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 2:28 PM  
**To:** EDNtestimony  
**Cc:** lynn@hawaiiicharterschools.com  
**Subject:** Testimony for HB2010 on 2/1/2012 2:00:00 PM  
**Attachments:** HB2010 & HB2008 Testimony - FINAL.pdf

Testimony for EDN/LAB 2/1/2012 2:00:00 PM HB2010

Conference room: 309  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Lynn Finnegan  
Organization: Hawaii Public Charter Schools Network  
E-mail: [lynn@hawaiiicharterschools.com](mailto:lynn@hawaiiicharterschools.com)  
Submitted on: 1/31/2012

Comments:



Hawaii State House of Representative  
Committees on Education and Labor & Public Employment

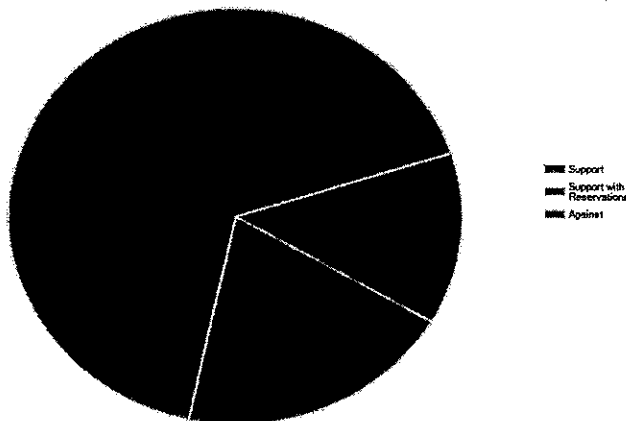
DATE: Wednesday, February 01, 2012  
TIME: 2:00 p.m.  
PLACE: Conference Room 309, State Capitol

Chair Takumi, Chair Rhoads, Vice Chair Belatti and Vice Chair Yamashita,

Re: HB2010 & HB2008, Testimony in Support w/reservations

The Hawaii Public Charter School Network (Network) is a 501(c)(3) non-profit organization that exists to advance high quality public education in Hawaii by advocating for, and providing supports to, public charter schools. The HPCSN represents all 31 of Hawaii's public charter schools, and their 9,000+ public charter school students. So far half of our schools have responded to our poll regarding this bill: 20% support, 67.7% support with reservations and 13.7% against.

SB2116 - Charter School Governance Authority and Accountability Task Force recommendations bill



This process started over a year ago; even before the Charter School Governance, Authority and Accountability Task Force was created. Charter school leaders and communities have been meeting to unify around charter school commonalities for charter school quality.

We strongly supported the purpose of the Charter School Governance, Authority and Accountability Task Force (CSGAATF) and appreciate the tremendous amount of time and effort invested by Co-Chairs Sen. Tokuda and Rep. Belatti, along with the esteemed and knowledgeable members of the task force. Rest assured, HPCSN recognizes the depth, sincerity, time and work invested in the resulting proposed legislation now before you.

We are heartened that during the CSGAATF discourse, the matter of trust was acknowledged openly, while discussion over the session was encouraged, not discouraged. We are thankful for the opportunity to continue exchanging ideas, information and viewpoints.

We respectfully point out that this bill proposes significant changes to the charter school law, and will cause charter schools to adjust to another governance framework. The good news is that this time, the change elements are largely based on national lessons learned.

With change however, there is fear of the unknown; leaps of faith are never easy, therefore, our collective "support with reservations" expresses optimism, but communicates responsible caution as well. One obvious source of reluctance to leap is the lingering question of funding children fairly, equitably and adequately. Charter schools have historically dealt with increasing demands and reporting while funding continues to be cut. Without acknowledging and addressing the issue of charter school funding, it would be difficult for charter schools to absorb new reporting, accountability, and transparency requirements, while also meeting and exceeding student performance standards and dealing with facility and other operational costs.

There are a number of national models to support charter school students that would significantly improving funding for charters, which is a stated concern in Hawaii's Race to the Top evaluation. The work of the previous charter school funding task force, while arduous and inclusive, has not yet resulted in equity, and we hope it is understandable we hold this as a major concern.

While charter school enrollments have continued to increase each year, the per pupil funding to the charter schools has declined significantly since fiscal year 2007-08. For example, since 2007-08 total charter school enrollment has increased by 3,208 students or 52.3%. During that same time per pupil funding for these students has declined from \$9,063.89 to \$5,933.50, a decrease of \$3,130.39 or 34.5%. This past year, state support for charter students continued to drop significantly.

As the legislature considers moving forward with these recommendations to fix the charter school governance system, please also consider that the need to equitably fund charter schools works hand in hand to provide the best outcomes for our students.

Therefore, in addition to passing bills HB2010 & HB2008, we humbly request the committee members, to:

1. Lift EDN600 budget provisos 19 & 20 for school year 12-13;
2. Use moneys currently held in the "under/over appropriations account" to support the CSAO's needs-based facilities funding formula, in part, and HB2008;

3. Support SB 2537 - Collective Bargaining, Master Agreements;
4. And support SB2598 - SPRBs for Charter Schools.

The funding increases can happen with funds already appropriated and without pulling from the already strained state general fund budget.

While the charter schools support creating a quality control governance structure to meet public accountability needs, **the following general overarching reservations with respect to HB2010 and HB2008 were shared by many:**

1. Carefully addressing and supporting the charter school sector should the CSAO be eliminated due to the vacuum of services that will occur with the elimination of that office, and;
2. Whether or not this new governance structure would further peel away at charter school autonomy.

However, please be assured that charter schools also see these changes as an opportunity to improve, which is the reason they wish to continue operating autonomously, and why the original intent of the law must be preserved. Charter schools, like those who have put in so much time and effort into the Task Force, want this legislation and system it sets up, to succeed.

**Specific comments for HB2010:**

The overarching task force goals reiterated the original intentions of Hawaii's charter school law, therefore please consider retaining language from Hawaii's original public charter school bill (Act 62/1999) as a way to make explicit, the intent of charter schools and to offer an assurance that successful, innovative strategies are shared with all public schools. Suggested language from Act 62/1999 that should be inserted in the draft bill:

- a. "to create new approaches to education that accommodate the individual needs of students and provide the State with successful templates that can dramatically improve Hawaii's educational standards for the twenty-first century"
- b. create "genuine opportunities for communities to implement innovative models of community-based education"

**S5 Authorizer power, duties, and liabilities. (pg 14, line 1)**

\*Clarification: Could conflict with S10 (page 17, line 10). Technical supports vs. services? Section 5, subsection (f) clearly prohibits an authorizer from providing technical supports to a charter school, and this is in line with the Model Law. However, Section 10 allows for the purchase of services from its authorizer, which is also allowed under the Model Law. Perhaps clarifying that Section 5, subsection (f)'s technical support prohibition is limited to the application process is needed.

**S13 Start-up charter schools; establishment. (pg 26, line 9)**

Please consider removing the word "interim", as it may not be needed.

**S23 Uniform education reporting system. (pg 48, line21)**

While well intended, we have concerns about pertaining to the Uniform Data Reporting requirements and use of school data. Charter schools have lingering challenges with access and control of their student data. We have reservations about this particular provision and ask that it be deferred until a more comprehensive review of the data collection systems can be completed as a part of the planned transition.

**S28 Funding and finance. (pg 60 &61)**

\*Amend language to allow funds in account for the needs based facilities formula and HB2010.

In conclusion, charter schools are generally in support of these sweeping changes and the reservations are mostly due to the support that is needed for implementation of, and transitioning to making these changes.

Thank you for your support of Hawaii's public charter schools.

A handwritten signature in black ink, appearing to read 'Lynn Finnegan', with a horizontal line extending to the right.

Lynn Finnegan  
Executive Director

**belatti2 - Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 8:27 AM  
**To:** EDNtestimony  
**Cc:** pkaneshige@hawaiipublicpolicy.com  
**Subject:** Testimony for HB2010 on 2/1/2012 2:00:00 PM  
**Attachments:** KS Charters HB 2010 - Support.doc

Testimony for EDN/LAB 2/1/2012 2:00:00 PM HB2010

Conference room: 309  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Kalei Kailihiwa  
Organization: Kamehameha Schools, Ho'olako Like  
E-mail: [pkaneshige@hawaiipublicpolicy.com](mailto:pkaneshige@hawaiipublicpolicy.com) Submitted on: 1/31/2012

Comments:





## KAMEHAMEHA SCHOOLS

House Education Committee

February 1, 2012

2:00 p.m.

Capitol Room 309

### **HB 2010, Relating to Charter Schools**

My name is Kalei Kailihiwa, Director of Kamehameha Schools' charter school support department, Ho'olako Like. Thank you for this opportunity to testify in support of HB 2010, relating to charter schools. Our specific comments on this bill are attached.

The long-standing achievement gap of Native Hawaiian students in the state's public schools is a significant concern for Kamehameha Schools and for many diverse stakeholders including the legislature. Increasingly data and practice in indigenous communities demonstrate the importance of culturally relevant education as a means for engaging and empowering students and their families in the learning process.

Whether it is applied to a homeless child who would not eat a meal that day but for the food provided at school, or the high performing academician who needs project-based learning to stimulate their mind, culture-based education has been proven in Hawaii to make a difference in student achievement and wellbeing.

Kamehameha Schools has been a collaborator with Hawaii public charter schools for the past decade in recognition of the ability of Hawaiian-focused public charter schools to cultivate environments where culture based education thrives. We have intensively focused our efforts with Hawaii Public Charter Schools in the areas of strategic, operational and instructional excellence framed by an approach to school accreditation. Currently, Kamehameha Schools works with 13 nonprofit tax-exempt organizations, including: 'Aha Pūnana Leo, OHA, KALO and the Ho'okāko'o Corporation, to assist a total of 14 start-up and 3 conversion charters with value added programming 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 4000 students in eleven communities on 4 major islands, within the public education system.

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Position on the Recommendations of the Charter School Governance Task Force  
HB 2010, Relating to Charter Schools

Kalei Kaillihiwa  
Director, Ho`olako Like  
Kamehameha Schools

The legislature convened the Charter School Governance Task Force (CSGTF) and Kamehameha Schools served as a participant in each meeting of the Task Force, represented by Ms. Lisa Okinaga of Ho`olako Like. We strongly supported the purpose of the Task Force to: (1) provide statutory language to clearly define the lines of governance structure and authority between the charter schools and relevant state agencies; (2) Identify how this structure relates to the state and local education agencies; (3) Identify the role and responsibilities of the CSRP, the CSAO, Local School Boards (LSBs); and (4) discuss funding issues including the CSAO. Of most important, we wholeheartedly embrace the goals of the Task Force to promote high expectations, increased flexibility and autonomy and meaningful accountability. These are the watchwords of our own commitment to culture based learning in general and Hawaii's public charter schools in particular.

These were extremely challenging and complex areas for discussion and often members engaged in debates that brought past issues of distrust among stakeholders movement to the forefront. Despite the challenges, and with our full support, members were able to agree on several recommendations with guidance and active involvement from several organizations including the National Governors Association (NGA), the National Association of Charter School Authorizers (NACSA), and Joe Nathan of the Macalester College Center for School Change. This paper summarizes our position with respect to the resulting proposed legislation:

1. The overarching task force goals reiterated the original intentions of Hawaii's charter school law, therefore please consider retaining language from Hawaii's original public charter school bill (Act 62/1999) as a way to make explicit, the intent of charter schools and to offer an assurance that successful, innovative strategies are shared with all public schools. Suggested language from Act 62/1999 that should be inserted in the draft bill:
  - a. *"to create new approaches to education that accommodate the individual needs of students and provide the State with successful templates that can dramatically improve Hawaii's educational standards for the twenty-first century"*
  - b. *create "genuine opportunities for communities to implement innovative models of community-based education"*

2. Overall, we **strongly support** the substance, the intent and the express recommendations of the Task Force, but for the exception of our concerns over Recommendation # 14, pertaining to the collection and use of school data, we uniformly support the changes proposed, subject to careful implementation and the need to fine tune the details of how implementation will be rolled out. We also **express concern** and reservation with respect to the exemption from **criminal liability** for authorizers (**bill page 15**).
3. While well intended, we have **concerns** about Task Force Recommendation # 14 pertaining to the Uniform Data Reporting (**see bill page 48**) requirements and use of school data. Charter schools have lingering challenges with access and control of their student data. We have reservations about this particular provision and ask that it be deferred until a more comprehensive review of the data collection systems can be completed as a part of the planned transition. Because our concern is so strong, and this is the only reservation with which we truly feel strong enough to request modification to the bill, we have raised it first and foremost for your consideration.
4. We **strongly support** the Task Force's recommendations # 1 and # 2, to replace the Detailed Implementation Plan (DIP) with a meaningful **performance-based contract (relevant throughout the bill, including at page 13)** and to push back the re-authorization process by one year. We believe that engagement of the charter school community and stakeholders in the development of performance-based contracts, tailored to the specific needs of students, parents, community and schools are essential to ensuring high performing schools.
5. We are equally enthusiastic **in support** of the **renaming and reconfiguring both the Charter School Review Panel and the Local School Boards** (recommendations # 3 and # 4) (**page 7 of the bill; page 21 as to governing boards**). Kamehameha Schools has made significant contributions and commitment toward promoting good governance, transparency and accountability and sound fiscal practices through its accreditation support. We support the changes proposed by the Task Force and appreciate and recognize the importance in taking into account the need for flexibility for the smallest of the charter schools.
6. We **support** the Task Force's recommendation # 5, to **promote an FTE audit** of positions in the DOE and to arm the Transition Coordinator with the directive necessary to seek and receive information that will be helpful to the transition.
7. We **support** lifting the cap on the number of charter schools, provided that it can be implemented in such a way as to avoid unnecessarily or inadvertently under-funding charter schools in any given year (e.g. self-cannibalizing the funding). We also **support** the concept of **multiple authorizers** on the premise that authorizers must have the capacity to oversee the number and breadth of applicants and schools – our position with recommendations # 6 and # 7 are therefore to support the Task Force.

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8. Recommendations # 8 - # 13 pertain to the **duties, staffing and roles/responsibility of the authorizer(s), the CSAO and the schools**. We **support** these recommendations based on our understanding of the Model Law, the needs of the schools and our experience with diverse schools and culture-based education.
9. We do not have a specific comment pertaining to the BOE as the ultimate arbiter of disputes nor any serious concern or problem with the transition. We do want to continue to positively engage with the charter school leadership, the public school community, authorizers, the BOE and the legislature concerning culture based education and Hawaii Public Charter Schools.



HAWAI'I EDUCATIONAL POLICY CENTER  
*Informing the Education Community*

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Written Testimony  
presented before the  
House Committee on Education  
and  
House Committee on Labor and Public Employment  
Wednesday, February 1, 2012 at 2:00 p.m. Rm 309  
by  
Donald B. Young, Director  
Hawai'i Educational Policy Center

**HB 2010 RELATING TO CHARTER SCHOOLS**

Support with recommendations.

Chair Takumi, Vice Chair Au Belatti, and members of the House Committee on Education, Chair Rhoads, Vice Chair Yamashita, and members of the House Committee on Labor and Public Employment, thank you for this opportunity to provide testimony on HB 2010.

My name is Donald Young. I am Director of the Hawai'i Educational Policy Center. HEPC supports much of this bill, but has strong reservations and questions regarding some of its components. Among our comments and concerns are the following.

1. **Retaining the Good.** We commend the Charter Schools Task Force for its work and support its recommendation to retain many important sections of the current law. We appreciate the Task Force's recognition that many safeguards, definitions, and other elements were created with much thought and discussion. And that not all of chapter 302B HRS is in need of revision.
2. **Charter Mission.** HB 2010 currently lacks a broad vision or mission for charters. One previous statement of purposes for charters can be found in the preamble for 2006 Session Laws of Hawaii ACT 298.

*PART I*

*SECTION 1. The charter school system is an important complement to the department of education's school system, one that empowers local school boards and their charter schools by allowing more autonomy and flexibility and placing greater responsibility at the school level. The charter school system is made up of the board of education, the charter school administrative office, the charter school review panel, and individual*

*charter schools with differing visions, missions, and approaches to meeting the various needs and desires of Hawaii's communities.*

*The purposes of the charter school system include:*

*(1) Providing administrators, parents, students, and teachers with expanded alternative public school choices in the types of schools, educational programs, opportunities, and settings, including services for underserved populations, geographical areas, and communities; and*

*(2) Encouraging and, when resources and support are provided, serving as a research venue for the development, use, and dissemination of alternative and innovative approaches to educational governance, financing, administration, curricula, technology, and teaching strategies.*

Clearly these purposes embrace the concepts of 1) the charters as a complement to the Hawai'i Department of Education (HIDOE) schools, 2) the goal and desirability of providing choices, and, 3) like the mission of the College of Education's Curriculum Research & Development Group, a mandate to innovate, experiment and conduct meaningful research on the part of all our public schools. Clarifying a broad sense of choice and innovation in a mission statement could be helpful.

3. **Governing Board Stability.** We are concerned that HB 2010 would require reconstitution of the governing board of the charter schools. This could trigger a period of instability and the loss of experience and historical knowledge that is very helpful in governing schools in tune with the stakeholders, partnerships, and communities from which they grew. Also, we are not entirely clear why it is necessary to limit the number of governing members. The spirit of charters is that each one has the freedom to be unique. This should extend to including different partners and stakeholders on their boards. This provision seems overly restrictive and unnecessary.
4. **Conflicts of Interest & Commission Membership.** Commenting on the section on page 18, lines 7-11. We support conflict of interest provisions in general. However, we are not sure that this provision relates to employees of the Commission, or some relationship of a member of the commission. Depending on how this is interpreted, it could prohibit anyone serving on the Commission who has any relationship to charter school advocacy. If so, just about anyone who has been involved with the charter community could be excluded from appointment to the commission, or inhibit their activities upon leaving. While the Ethics Commission has not yet explicitly ruled on whether they regard governing boards or a future Commission as state employees (such as for lobbying or advocating), should they do so, this could further restrict the pool of who might be qualified for appointments. This section might need clarification.
5. **Annual Reports.** On page 39 it is the option of the authorizer to require an annual report. We suggest that this not be an option but a mandate, and that the authorizer be required to

stipulate the minimum information and data that must be provided. In the past, annual reporting has been less formal and the requirements unclear, and as a result, created great unevenness in data collection and reporting. In addition, we suggest that all authorizers be required to report back to each school its evaluation of the quality of the report. This ensures that reports do not sit on the shelf, and that the authorizer has an obligation to review each one thoroughly and comment on it, thereby being accountable to the charter school.

6. **What is the Real Term for a Charter?** On pages 43-44 there is reference to the power of an authorizer revoking a charter before a five-year term is completed. On page 44 (2) there is room for a great deal of interpretation as to whether a school fails to make sufficient progress. It should be noted that the contracts are created, presumably, with a certain expectation of per-pupil funding. In the past not only has per-pupil funding fallen short of keeping up with charter enrollments, it has actually dramatically been reduced. In 2006 the level of funding was about \$8,000 per pupil, but just a few years later had dipped to just over \$5,300. The authorizer has no control over this, but somewhere there should be language that requires the authorizer to take into account whether good-faith implementation of the provisions of the contract were made by the charter school within the funding actually provided. We do not think a charter's term should be cut short because of financial circumstances beyond its control.
7. **Facilities.** Page 46 discusses what happens when a school closes. Under (c), beginning on line 18, there is obvious confusion over facilities. Non-conversion charters do not have state built and owned facilities. Often facilities are rented from nonprofits that have partnered with the charter to provide facilities. These nonprofits are not state entities and the state has no claim on their assets.
8. **Uniform Reporting.** On pp 48-49, the State Board of Education is required to establish a uniform reporting system. This seems to suggest that whatever the HIDOE has the charters will have to live with. HIDOE schools, like other regular state departments, have many features of management that charters have been free from. One example is establishing permanent positions. Charters are often asked to respond to sets of questions that simply do not apply to charters. We would suggest that the State Board of Education establish appropriate data systems for HIDOE and charters, and leave the details to be worked out later. Certainly many items would be the same, but not all. Charters have additional accountability measures (in their charters and contracts) that would be missed by the HIDOE system. One size does not fit all in this case.
9. **Facilities Occupancy.** On page 49 there is a provision regarding making unused former HIDOE facilities available to charters. However, under this language, it is unlikely that our HIDOE, needing additional income, and seeking to minimize the cost of rental space, would offer facilities to a charter school. This section needs to be tightened up or revised or it may have no effect.
10. **HIDOE and Charter Personnel.** Page 55 (d) relates to facilitating and encouraging the movement of instructional personnel. This is a great ideal, but previous policy memos of

HIDOE work against it. (See Memo of January 21, 2011, *SUBJECT: Revisions to the Guidelines Regarding the Movement of Teachers between the Department of Education and the Public Charter Schools.*) This section might be strengthened. One option that the HIDOE already recognizes is the reassignment of HIDOE employees. At least for transitional periods, this might be an attractive additional feature for conversion schools.

11. **Funding.** On page 58 lines 8-10 there is reference to a budget request. We are not clear who makes such a request. We do note that the Commission is prohibited from advocacy or support of the schools.
12. **The Elimination of the CSAO Technical Support.** Our greatest concern is the elimination of the only support agency for charters. Over the years all the charters have benefited by this office, in many ways that are invisible. Smaller charters will not have the ability, expertise or funds to stand alone without the kinds of administrative expertise and support we take for granted within the HIDOE. Just one example would be the requirement on page 65 that a separate annual contract be negotiated with each and every charter regarding special education services. In the past, lengthy workshops and meetings were required to sort out many of these technical issues. One consequence would be that charters really would not have an equal footing in negotiating these contracts. As written, HB 2010 prohibits an authorizer from providing any technical assistance. Thus, the transition period whereby some existing staff might be offered employment under the Commission, in no way ensures that the skills, experience or history of charter support would land in another place. And the bill would not allow it.
13. **The Elimination of Advocacy.** Currently the Executive Director (ED) is more than the head of an administrative support office. She or he is by law an independent analyst and advocate. The ED is to charters what the ED is for seniors in the Executive Office on Aging, to cite one example. Over the years it has become clear that many state offices, agencies and departments, not to mention other stakeholders such as unions, do not have the time or resources to deal with each and every charter independently. While we acknowledge that some charters have not always agreed with the actions or inactions of the CSAO and its ED, this is not the same as concluding there is no need for it.

Thank you for the opportunity to provide this testimony.



**belatti2 - Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 11:44 PM  
**To:** EDNtestimony  
**Cc:** info@schha.com  
**Subject:** Testimony for HB2010 on 2/1/2012 2:00:00 PM

Testimony for EDN/LAB 2/1/2012 2:00:00 PM HB2010

Conference room: 309  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Annie Au Hoon  
Organization: Individual  
E-mail: [info@schha.com](mailto:info@schha.com)  
Submitted on: 1/31/2012

Comments:  
LSB Member, Support with Reservations

**belatti2 - Kate**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2012 11:34 PM  
**To:** EDNtestimony  
**Cc:** honoluluruth@hawaiiantel.net  
**Subject:** Testimony for HB2010 on 2/1/2012 2:00:00 PM  
**Attachments:** HB 2010 testimony. doc

Testimony for EDN/LAB 2/1/2012 2:00:00 PM HB2010

Conference room: 309  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Ruth Tschumy  
Organization: Individual  
E-mail: [honoluluruth@hawaiiantel.net](mailto:honoluluruth@hawaiiantel.net)  
Submitted on: 1/31/2012

Comments:

**Ruth D. Tschumy**

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February 1, 2012

2:00 P.M.

Conference Room 309

TESTIMONY TO THE  
HOUSE COMMITTEE ON EDUCATION

**RE: HB 2010**  
**Relating to Charter Schools**

**In SUPPORT of HB 2010**

Chair Takumi, Vice Chair Au Belatti, and Members of the Committee:

My name is Ruth Tschumy; I am a former member of the Charter School Review Panel, and a member of the Charter School Task Force.

In my view, legislation with regards to charter schools should help schools fulfill the fundamental charter school “bargain,” at the same time it holds them accountable if they fail to do so. The bargain is that in exchange for greater autonomy and the use of State funds, charter schools agree to be accountable, transparent, educationally innovative and academically strong. I support HB 2010 because it spells out what schools must do to fulfill this bargain, what help they can expect in doing so, and what the consequences will be for breaking the bargain.

However, I would like to ask that you consider several possible changes:

1. Section 12 - Governing Boards – 302B-7 spells out the constituencies that must be represented on the governing board of the school (formerly the local school board). Since SB 2115 does away with these constituencies, it is possible there could be a governing board with no community members, parents or teachers. I suggest that governing board meetings be placed under “Sunshine” so the school community can be involved in the meetings, know what’s to be discussed and voted on, and if unable to attend, know what’s transpired at them.

Further, the bill states “No more than 30% shall be employees of the school...”; however, it later defines “employee” as the head of school, by whatever name. The intent, I thought, was to limit the number of school employees on the board (teachers, staff, etc.) since how can an employee hired by the head of school evaluate the head’s performance or make policy decisions that may be in conflict with the head’s position? The definition of “employee” should be broadened to include all those who work for the head/principal of the school.

2. Section 14 – To avoid another Laupahoehoe and for the sake of fairness, I would strongly urge that a majority vote of at least teachers and parents, if not all constituency groups, be required for conversion of a DOE public school. Some years ago before the statute was changed, Kualapu`u had to wait to convert until all segments of its school community were heard, were respected, and, finally, came together and agreed to the conversion. Today Kualapu`u is excelling as a school.

3. Section 18 – Though most charter schools are highly professional in meeting their responsibilities, I would like to see the bill include a provision that all charter schools initially be given a 1-year performance contract. A one-year contract for all schools, followed by 5-year contracts for those who meet the specifications in the contract (for those who don’t, additional one-year contracts would be offered), will help all schools live up to the important charter school bargain.

Thank you for this opportunity to provide testimony.