

Date: 03/29/2012

Committee: House Finance

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 2115,SD2,HD1(hscr1239-12) RELATING TO CHARTER SCHOOLS.

Purpose of Bill: 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. Repeals chapter 302B, HRS. Maintains the charter school administrative office until July 1, 2013. Transfers all funds in the charter schools account established pursuant to section 302B-12(i), HRS, to the general fund. Makes housekeeping amendments. (SD2)

Department's Position:

DOE supports the overall purpose and intent of this bill, but wishes to raise concerns about a technical change to Section 28(c) which would impose unduly burdensome accounting requirements for an issue that could be resolved in simpler ways.

§ - 28 (c) would require the director of finance determine the Charter School's and Department's per pupil funding and make transfers between the two to provide identical per pupil amounts. The addition of this requirement into the SD2 and retention in the HD1 of this measure was not requested by the DOE and is not supported by the DOE.

This calculation to determine the necessity of transfers would be based on the director of finance's comparison of:

- the quotient of the Department's general fund regular education cost categories (including comprehensive school support services, but excluding special education services, adult education, after-school plus program, fringe benefits, and debt service) divided by a verified October 15 student count for all schools within the Department; and,
- the quotient of the Charter Schools "non-facility" funding level divided by a verified October 15 student count of all charter schools.

To implement this requirement, transfers would need to be made between the Charter Schools' general fund budget in EDN600 and presumably the Department's general fund budget in EDNs 100, 200, 300,

and 400. The DOE would need to add an additional official enrollment count date increasing the amount of time and effort principals and school personnel would need to review and verify the counts. This requirement adds a cumbersome requirement for both the DOE and Charter Schools, subjecting both the DOE and Charter Schools to the uncertainty of potentially losing funds almost 40% of the way through the fiscal year subject to the accuracy of both the DOE's (1) and Charter Schools' enrollment projections, the Legislative appropriators' fidelity to the existing charter school general fund formula in statute, and the result of both the Department's and Charter School's actual enrollment.

See attachment for a calculation of what would have happened this school year if this requirement to transfer between the DOE and Charter Schools were already in place. If the DOE and PCSs were required to transfer funds between each entity, \$3.8 million would have been transferred from public charter schools to the DOE. The relative size of the DOE versus the PCSs would have resulted in a major impact on the PCSs general fund allocation (-6.45%) and a relatively smaller impact on the DOE's funding (+0.37%) used to determine comparable general fund support.

A truing up of per pupil funding for Charter Schools based on actual enrollment is currently handled via an "account" within the general fund. If this method is determined to be problematic an alternative could be truing up EDN600 via existing statutory authority held by the Executive Branch to restrict funds or submit emergency appropriation requests.

Thank you for the opportunity to testify on this measure.

NOTE:

(1) over the last five years the average variation between projected and actual enrollment for the DOE has been .47%, meaning that on average the DOE's projected enrollment has been .47% lower than actual enrollment when the Department's official enrollment count is taken in August (10 days after the start of the school year).



HB2115 HD1 calculation.pdf

Scenario of what would happen if requirement to transfer funds between DOE and Charter Schools was in effect this fiscal year, without the charter school "account" currently in 302B-12 but not in Section 28- of SB2115 SD2 HD1.

A	FY12 General Fund Appn EDN100	775,148,488	Source Act 164. SLH 2011
B	FY12 General Fund Appn EDN200	45,745,674	Source Act 164. SLH 2011
C	FY12 General Fund Appn EDN300	43,344,985	Source Act 164. SLH 2011
D	FY12 General Fund Appn EDN400	174,109,976	Source Act 164. SLH 2011
E = A+B+C+D	DOE Basis for PCS Per Pupil	1,038,349,123	
F	DOE Projected Enrollment	170,367	Source: DOE OITS-IRM
G = E/F	Average Per Pupil for DOE	6,094.78	
H	FY12 General Fund Appn EDN600	59,680,071	Source Act 164. SLH 2011
I	PCS Projected Enrollment	9,792	Source: Legislative Fiscal Committee
J = H/I	Average Per Pupil for PCSs	6,094.78	
K	DOE Actual Enrollment (Aug 2011 OEC)	172,104	Source: DOE OITS-IRM
L = E/K	Average Per Pupil for DOE at OEC	6,033.27	
M	PCS Actual Enrollment (Nov 15, 2011 EC)	9,220	Source: CSAO Report to 2012 Legislature dated 12/6/11
N = H/M	Average Per Pupil for PCSs at OEC	6,472.89	
O = A+B+C+D+H	EDN100, 200, 300, 400, & 600 Gen Fund Appn	1,098,029,194	
P = K+M	Actual Enrollment for DOE and PCSs	181,324	
Q = O/P	Average Actual Per Pupil for DOE and PCSs	6055.62	
R = K * Q	DOE Allocation Adjusted for Transfers	1,042,196,379.98	
S = M * Q	PCSs Allocation Adjusted for Transfers	55,832,814.02	
T = R - E	Impact of transfer to DOE Allocation	3,847,256.98	
U = T/E	% impact on DOE basis	0.37%	
V = Q - L	Impact of transfer to DOE per pupil funding	22.35	
W = S - H	Impact of transfer to PCSs Allocation	(3,847,256.98)	
X = W/H	& impact on PCSs budget	-6.45%	
Y = Q - N	Impact of transfer to PCSs per pupil funding	(417.27)	

1. The DOE's projected enrollment was lower than actual enrollment at the official enrollment count by 1,737. The PCS's projected enrollment was higher than the actual enrollment at the verified Official Enrollment Count by 572.
2. If the DOE and PCSs were required to transfer funds between each entity the relative size of the DOE versus the PCSs would have resulted in a major impact on the PCSs general fund allocation (-6.45%) and a relatively smaller impact on the DOE's funding (+.37%) used to determine comparable general fund support.

NEIL ABERCROMBIE
GOVERNOR



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FOR: SB2115, SD2, HD1, Relating to Charter Schools
DATE: Thursday, March 29, 2012
TIME: 5:30 p.m.
COMMITTEE(S): House Committee on Finance
ROOM: Conference Room 308
FROM: Roger McKeague, Executive Director
Charter School Administrative Office

Testimony in support of the intent and goals of SB2115, SD2, HD1

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

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 where I served as a member. The CSAO supported the intent and goals of the CSGTF, and we now support the intent and goals of SB2115 (the result of the CSGTF) to increase the autonomy and accountability for charter schools. In order to prioritize and address the sweeping changes envisioned by the Task Force, many of the "in the weeds" details did not get discussed. At this time, it is critical that we incorporate those details appropriately into this bill to enable this legislation to be successful.

I summarize our major comments below, and our detailed suggested amendments are attached.

Major comment #1: Funding for the operations and staffing of the Commission needs to be provided in this bill or the State Budget Bill.

Currently, the only area in this bill where resources and staff for the Commission are addressed is in § -3(k): "The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter."

While, we recommend that the funding for the Commission bear a relationship to the allocation to the charter schools to recognize the growing number of students and schools being served, a specific line item for the Commission that is funded separately from the charter school allocation is appropriate.

Further, it is important to note that while this bill states that the Commission operates with dedicated resources, there is nothing in the State Budget Bill that indicates this. If it is not possible to fund the Commission in the coming fiscal year, a possible short term solution is to enable the CSAO to provide staff support to the Commission by inserting language similar to what is currently in statute into Section 3 stating "The office may provide for the staff support for the commission."

In addition, there needs to be more clarity on how Commission staff is hired. We recommend looking at the current statute, specifically §302B-8, for language. We have inserted some sample language in the attachment.

Major comment #2: Under the funding and finance section of the bill, we recommend that it be the Commission's responsibility to submit the budget request for all charter schools.

According to § -28 of the bill, it seems as though each authorizer submits individual budget requests each fiscal year, but it is unclear. If that is the case, as authorizers are added, there would be multiple budget requests being submitted annually which could potentially be problematic. We recommended clarifying this section and making it the Commission's responsibility to submit the budget request for all charter schools.

Further, this section has changed significantly from the previous draft of the bill, and while we are still reviewing it, we do have some concerns. The majority of our questions arise from the new language that was added in subsection (c), and some of our questions are:

1. What does "non-facility costs" mean? Referring to subsections (a) and (b) still leaves quite a bit of room for interpretation.
2. Paragraph (1) under subsection (c) refers to the October 15 count. Would the Department of Education now have to have an enrollment count on that date? Also, this paragraph refers to "reviewed and verified" enrollment counts. Would the Department be required to have their count reviewed and verified as well? And if so, by whom?
3. The Governor already has the ability to impose restrictions under subsection (b), so allowing the Director of Finance to "modify or amend any allotment" is unnecessary. In addition, there is a historic lack of agreement with Budget and Finance in its ability to follow legislative intent concerning the charter school budget.

Major comment #3: Certain CSAO functions should remain with a centralized state agency.

There are certain current CSAO functions that are impractical to move outside of a centralized state agency. For the sake of this analysis, I have broken them down into two categories:

“agency” functions and “conduit” functions. These functions comprise a substantial amount of the work done by the Charter School Administrative Office.

Agency functions as those operations that the bureaucracy of State Government expects, requires, and demands. Many operations within the state require the signature of a “State official” with the golden state seal on their letterhead and the position title that includes the word “Director.” It is within this function that the office often encourages/pressures the existing systems to improve. This internal pressure is only possible from within a government role.

Conduit functions are those that provide connectivity for charter schools to the web of state systems. The CSAO is the hack into “the Matrix.” Currently, these functions must be provided by a centralized state agency because that is how the state systems are set up. Someday, some of these functions could possibly be outsourced if and when the various state systems are upgraded. As each system is improved and made more accessible, parts of that conduit function could be reduced or alleviated.

In order to provide a clear distinction between these two functions, here is an abbreviated/partial list of examples of agency and conduit functions that CSAO performs:

Agency Function	Conduit Function
Drawing down general funds for distribution (involving Department of Budget and Finance and Department of Accounting and General Services)	Liaison between the charter schools and ERS, EUTF, Department of Budget and Finance, Department of Human Resources, 403b providers, and section 125 plan providers regarding employee benefits
Distribution of Department of Education allocated funds (including federal and state general funds)	Gathering, compiling, and reporting budgets, revenues, expenditures, and enrollment information to the State Legislature, Governor’s Office, B&F, and DOE
Working with DAGS on state workers’ compensation and other state insurance programs	Acting as a liaison between the charter schools on state insurance programs and the agencies administering them
Working with Risk Management Office, the Department of the Attorney General, and the Office of the Governor	“Quasi-CAS” for charter schools providing point of contact for dissemination and aggregation of educational, financial, and operational compliance with best practices
Resolving discrepancies for official enrollment counts between the charter schools and the DOE	Access to state database silos for the purpose of resolving discrepancies and data quality issues (e.g. highly qualified teacher status, qualification for federal programs participation)

It is possible for the Commission to take over these agency and conduit functions. However, that would require removing the clause about technical support in § -5(f). In addition, if the Commission was to take on these functions, more positions may be required than what was originally recommended by the CSGTF. We support this approach. It has been proposed that the agency/conduit functions could be separate from the Commission staff. However, incorporating them together would be more efficient.

Regardless, it is clear to us that one year is not enough time to transition CSAO's functions and duties. Therefore, we recommend extending the sunset date of the CSAO from July 1, 2013, to July 1, 2014. In addition, to ensure that the agency and conduit functions are maintained at a centralized government agency, we recommended transferring all rights, powers, functions, and duties of the CSAO to the Commission upon the dissolution of the CSAO.

Major comment #4: Authorizers should be allowed to provide technical support to charter schools.

If the Commission were to take on agency and conduit functions currently being done by the CSAO, the Commission would need the ability to provide technical support.

In addition, it is our understanding that authorizers are responsible for Title I and other federal programs compliance according to federal law. Part of Title I is providing technical support, which conflicts with § -5(f) of this bill.

Lastly, the notion that authorizers cannot properly hold charter schools accountable if they provide them with technical support is inconsistent with common practices as LEAs across the nation do it. Not only would authorizers be able to hold schools accountable, they would be able to create an environment where quality charter schools could thrive. We recommend removing § -5(f) altogether.

ADDITIONAL COMMENTS

Comment #1: The voting requirement for the Commission to take action should be more flexible.

Currently, the Review Panel is required to have a majority of members (seven of twelve) to constitute a quorum and the "concurrence of a majority of all the members to which the Panel is entitled" to make any action by the Panel valid. This has caused problems in instances when the Panel was only able to gather seven members, just enough for quorum. The main issue is that when this happens, any single member has veto power, and we have found certain items, which should be considered regular business, stall.

Our recommendation is that a simple majority of Commission members present should be enough to make any action valid. However, noting the concerns of having as little as three

members out of the possible nine take action on more significant items, we recommend that at least seven members (of nine) be required to constitute a quorum on actions to issue, not issue, revoke, renew, or not renew a charter contract.

Comment #2: The Commission should be required to receive board training.

The Commission is an oversight board, not a working board. To ensure proper governance and accountability, members of the Commission should receive mandatory annual board training. This would provide the Commission with the tools to operate efficiently and effectively.

Comment#3: The State should afford authorizers the same protections and immunities as the State affords the Board of Education.

In § -5(e), authorizers are granted certain immunities from civil and criminal liability. The Hawaii Public Charter Schools Network and Kamehameha Schools/Ho'olako Like have submitted concerns about this language. To avoid any ambiguity with this subsection, we recommended amending it to "The State shall afford an authorizing entity, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer the same protections and immunities as the State affords the board." This is similar language to what is used in § -12(g), which affords governing boards the same protections as the State affords the BOE. However, we do recommend inserting "and immunities" into § -12(g) as well for consistency.

Comment #4: The conflict of interest section should be revised to clarify roles.

The conflict of interest section, § -8, states (emphasis added): "No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school **authorized by** that authorizer."

We see a potential problem with the use of "authorized by" in this section. It is possible that a charter school could transfer to and hold a charter contract with another authorizer that they were not authorized by. If this happened, it could be argued that employees, agents, and the like of that school could also serve in similar capacities with the new authorizer. Further, existing charter schools will be under a charter contract with the Commission, but will not have been authorized by the Commission.

Therefore, we recommend changing "authorized by" to "that holds a charter contract with."

Comment#5: The Weighted Student Formula section is unnecessary.

In the history of charter schools in Hawaii, not a single charter school board voted for the option to use the DOE's WSF, let alone the majority of charter school boards. It is highly unlikely that this would ever happen; therefore we find this section unnecessary. We recommend removing this section entirely and amending §302A-1303.6 accordingly.

Comment #6: The terms “applicants” and “applications” are used in several ways and should be clearly delineated.

The terms “applicant” and “application” are used in several different sections of the bill: a) In § -4 referring to applicants and applications to become a charter school authorizer; b) in § -5, -6, -13, -14, and -15 referring to applicants and applications for new charter schools; c) in § -18 referring to applications for charter contract renewals; and d) in § -24 referring to applicants and applications for the occupancy and use of Department of Education buildings when they become vacant.

We recommend that “authorizer applicant,” “authorizer application,” “charter applicant,” and “charter application” be explicitly defined to provide clarity.

Comment #7: Clarify that “charter” is equivalent to “charter contract” and that a “charter contract” is between an authorizer and a governing board.

The term “charter” is used in various parts of the bill in place of “charter contract,” but is not mentioned in the Definitions section. We recommend that it be clarified that the terms are interchangeable.

Further, we recommend that the definition of “charter contract” or “charter” be amended to mean “a ... contract between a public charter school governing board and an authorizer...” The charter is intended to be held by a governing board.

Comment #8: The terms “reauthorize” and “renew” seem to be used interchangeably.

The terms “reauthorize” and “renew” are used throughout the bill and seem to mean the same thing. We recommend that only one of these terms be used for consistency and clarity.

Comment #9: §302A-1302, school-based budget flexibility, needs to be amended to reflect the changes proposed in this bill.

This bill does an excellent job addressing all the other statutes that would be affected by the repealing of §302B. However, §302A-1302 seems to have been overlooked. This section should reflect that authorizers will be responsible for distributing charter school allocations once the CSAO is dissolved.

While this is a summary of comments and amendments, please review the attachment for more detailed recommendations.

Thank you for this opportunity to submit testimony.

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2115
S.D. 2
H.D. 1

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. *(No proposed amendments to this section.)*

PART II

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

PUBLIC CHARTER SCHOOLS

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

~~"Application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.~~

"Authorizer" means an entity authorized under this chapter to review charter applications, decide whether to approve or reject charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, ~~reauthorize~~ renew, or reject charter contracts. The term may include the commission when appropriate.

~~"Authorizer applicant" means an eligible entity applying for chartering authority pursuant to § -4.~~

~~"Authorizer application" means a proposal for chartering authority pursuant to § -4 from an eligible entity to the board.~~

"Board" means the board of education.

"Charter applicant" means a governing board formed pursuant to this chapter or nonprofit organization that desires to apply and obtain a charter contract with an authorizer for a start-up or conversion charter school.

"Charter application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.

"Charter contract" or "charter" means a fixed-term, bilateral, renewable contract between a public charter school governing board and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

"Charter school" or "public charter school" refers to those public schools and their respective governing boards, as defined in this section, that are holding charters to operate as charter schools under this chapter, including start-up and conversion charter schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management.

"Commission" means the state public charter school commission established pursuant to -3 as a statewide authorizer.

"Conversion charter school" means:

(1) Any existing department school that converts to a charter school and is managed and operated in accordance with section -14;

(2) Any existing department school that converts to a charter school and is managed and operated by a nonprofit organization in accordance with section -14; or

(3) A newly created school consisting of programs or sections of existing public school populations that are funded and governed independently and may include part of a separate Hawaiian language immersion program using existing public school facilities.

"Department" means the department of education.

"Executive director" means the executive director of the state public charter school commission.

"Governing board" means the independent board of a public charter school that is party to the charter contract with the authorizer that:

(1) Is responsible for the financial, organizational, and academic viability of the charter school and implementation of the charter;

(2) Possesses the independent authority to determine the organization and management of the school, the curriculum, and virtual education;

(3) Has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees and is considered the employer of charter school employees for purposes of chapters 76, 78, and 89; and

(4) Ensures compliance with applicable state and federal laws.

"Nonprofit organization" means a private, nonprofit, tax-exempt entity that:

(1) Is recognized as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and

(2) Is domiciled in this State.

"Organizational viability" means that a charter school:

(1) Has been duly constituted and operates in accordance with its charter;

(2) Has a governing board established in accordance with law and the charter school's charter;

(3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;

(4) Maintains accurate and comprehensive records regarding students and employees as determined by its authorizer;

(5) Meets appropriate standards of student achievement as defined by the board pursuant to its duties under article X, section 3, of the Constitution of the State of Hawaii;

(6) Cooperates with board, commission, and authorizer requirements in conducting its functions;

(7) Complies with applicable federal, state, and county laws and requirements;

(8) In accordance with authorizer guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;

(9) Operates within the scope of its charter and fulfills obligations and commitments of its charter;

(10) Complies with all health and safety laws and requirements;

- (11) Complies with all commission and authorizer directives, policies, and procedures; and
- (12) Complies with all board policies deemed applicable to charter schools by the board.

"Start-up charter school" means a new school established under section -13.

§ -2 Existing charter schools. *(No proposed amendments to this section.)*

§ -3 State public charter school commission; establishment; appointment. (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 shall be subject to chapter 92.

(b) The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

(c) The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders.

(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such.

(e) Each nominee to the commission shall ideally meet the following recommended qualifications:

(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and

(2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding commission policies.

(f) Five members of the commission shall constitute a quorum to conduct regular business and a concurrence of ~~at least five members~~ a simple majority of members present shall be necessary to make any action of the commission valid. However, seven members of the commission shall constitute a quorum on actions to issue, not issue, revoke, renew, or not renew a charter contract, and a concurrence of a simple majority of those present shall be necessary to make such actions valid.

(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012, shall be staggered as follows:

(1) Three members, including the chairperson, to serve three-year terms;

(2) Three members to serve two-year terms; and

(3) Three members to serve one-year terms.

(h) Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

(i) Commission members shall receive no compensation. When commission duties require that a commission member take leave of the member's duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to fulfill that member's duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.

(j) Upon becoming a member of the commission, and annually thereafter, each member of the commission shall receive board training to ensure effective oversight, governance, and accountability within the charter school system.

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

(lk) The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter; provided that:

(1) The commission shall appoint an executive director without regard to chapters 76 and 89 to administer the commission's day-to-day responsibilities. The commission shall hire the executive director, who may be contracted for a term of up to four years; shall offer the executive director a written contract; and may terminate the executive director's contract only for cause. The executive director may hire necessary staff without regard to chapters 76 and 89 to assist in the administration of the commission's day-to-day responsibilities;

(2) The executive director shall be evaluated annually by the commission. The annual evaluation shall be conducted sufficiently in advance of the end of a term to provide the executive director the opportunity to respond to concerns and improve performance;

(3) The executive director shall establish the positions and set the salaries of the staff in accordance with chapter 89C; and

(4) The commission may carry over funds from previous year allocations.

§ -4 Chartering authority application for eligible entities. (a) The commission created under section -3 may authorize public charter schools anywhere in the State.

(b) Governing boards of accredited public and private postsecondary institutions, including community colleges, technical colleges, and four-year universities may apply to the board, pursuant to this section, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.

(c) A county or state agency may apply to the board, pursuant to this section, for chartering authority;

(d) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the board, and may be granted statewide chartering authority. Nonpublic sectarian or religious organizations and any other charitable organization which in their federal Internal Revenue Service Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer under this chapter.

(e) The board shall establish, through administrative rules, the annual authorizer application and approval process for all entities eligible to apply for chartering authority pursuant to this section. Following the adoption of administrative rules, by June 30 of each year, the board shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this chapter. The authorizer application process shall require

each interested eligible entity to submit an authorizer application that clearly explains or presents the following elements:

(1) Written notification of intent to serve as a charter authorizer in accordance with this chapter;

(2) The authorizer applicant's ~~entity's~~ strategic vision for chartering;

(3) A plan to support the vision presented, including explanation and evidence of the authorizer applicant's ~~entity's~~ budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this chapter;

(4) A draft or preliminary outline of the request for proposals that the authorizer applicant ~~entity~~, if approved as a charter authorizer, would issue to solicit public charter school applicants;

(5) A draft of the performance framework that the authorizer applicant ~~entity~~, if approved as a charter authorizer, would use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this chapter;

(6) A draft of the authorizer applicant's ~~entity's~~ renewal, revocation, and nonrenewal processes, consistent with section -18;

(7) A statement of assurance that the authorizer applicant ~~entity~~ seeks to serve as a charter authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as a charter authorizer, the entity will fully participate in any authorizer training provided or required by the State; and

(8) A statement of assurance that the authorizer applicant will ensure public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures.

(f) By June 30 of each year, the board shall decide whether to grant or deny chartering authority to each authorizer applicant. The board shall make its decisions on the merits of each authorizer applicant's proposal and plans.

(g) Within days of the board's decision, the board shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this chapter, and shall specify additional performance terms based on the authorizer applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

(h) This section shall not apply to the commission.

§ -5 Authorizer powers, duties, and liabilities. (a) Authorizers are responsible for executing the following essential powers and duties:

- (1) Soliciting and evaluating charter applications;
- (2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- (3) Declining to approve weak or inadequate charter applications;
- (4) Negotiating and executing sound charter contracts with each approved public charter school;
- (5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and

(6) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(b) An authorizer shall:

(1) Act as the point of contact between the department and a public charter school it authorizes and be responsible for the administration of all applicable state and federal laws;

(2) Be responsible for and ensure compliance of a charter school it authorizes with all applicable state and federal laws, including reporting requirements;

(3) Be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes; and

(4) Be responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes.

(c) An authorizing entity may delegate its duties to officers, employees, and contractors.

(d) Regulation by authorizers shall be limited to the powers and duties set forth in this section, and shall be consistent with the spirit and intent of this chapter.

(e) The State shall afford an authorizing entity, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer the same protections and immunities as the State affords the board.~~An authorizing entity, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school authorized by that entity, except for any acts or omissions constituting wilful misconduct.~~

~~— (f) An authorizer shall not provide technical support to a charter school it authorizes in cases where the technical support will impact any authorizer decision related to the authorization, renewal, revocation, or nonrenewal of the charter school.~~

§ -6 Principles and standards for charter authorizing. *(No proposed amendments to this section.)*

§ -7 Authorizer reporting. *(No proposed amendments to this section.)*

§ -8 Conflict of interests. No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that holds a charter contract with that authorizer.

§ -9 Exclusivity of authorizing functions and rights. *(No proposed amendments to this section.)*

§ -10 Services purchased from authorizer; itemized accounting. *(No proposed amendments to this section.)*

§ -11 Oversight of public charter school authorizers. *(No proposed amendments to this section.)*

§ -12 Charter school governing boards; powers and duties. (a) No more than thirty per cent of the members of a governing board shall be employees of a school or relatives of employees of a school under the jurisdiction of that governing board; provided that the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a charter school may serve as an ex officio, non-voting member of the governing board. In selecting members, consideration shall be given to persons who:

(1) Demonstrate an understanding of best practices of non-profit governance;

(2) Possess strong financial management, academic knowledge and oversight, human resources, and fundraising experience; and

(3) Provide the governing board with a diversity of perspective and a level of objectivity that accurately represent the interests of the charter school students and the surrounding community.

(b) No employee of a charter school or relative of an employee of a charter school may serve as the chair of the governing board of that charter school; provided that an authorizer may grant an exemption from the provisions of this subsection based upon a determination by the authorizer that an exemption is in the best interest of the charter school.

(c) The governing board shall be the independent governing body of its charter school and shall have oversight over and be responsible for the financial, organizational, and academic viability of the charter school, implementation of the charter, and the independent authority to

determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The governing board shall ensure its school complies with the terms of the charter contract between the commission or authorizer and the school. The governing board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.

(d) Governing boards shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Governing boards and charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.

(e) Charter schools and their governing boards shall be exempt from the requirements of chapters 91 and 92. The governing boards shall:

(1) Make available the notices and agendas of public meetings:

(A) At a publicly accessible area in the governing board's office and the authorizer's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the authorizer's internet website not less than six calendar days prior to the public meeting, unless a waiver is granted by the authorizer or authorizer's designee in the case of an emergency; and

(2) Make available the minutes from public meetings within thirty days and maintain a list of the current names and contact information of the governing board's members and officers:

(A) In the governing board's office and the authorizer's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the authorizer's internet website.

(f) Charter schools and governing boards shall be exempt from chapter 84; provided that they shall develop internal policies and procedures for gifts, confidential information, fair treatment, conflicts of interest, and contracts consistent with the goals of the state ethics code, pursuant to chapter 84. Charter schools and governing boards are encouraged to use the provisions of chapter 84 where possible; provided that the use of one or more provisions of chapter 84 shall not constitute a waiver of the exemption from chapter 84 and shall not subject the charter school or governing board to any other provision of chapter 84.

(g) The State shall afford the governing board of any charter school the same protections and immunities as the State affords the board.

(h) For purposes of this section, "employees" shall include the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a school.

§ -13 Start-up charter schools; establishment. (a) New start-up charter schools may be established pursuant to this section.

(b) Any community, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to form a charter school, establish a governing board as its governing body, and develop ~~an a~~ charter application pursuant to subsection (d).

(c) The start-up charter school application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

- (1) The submission of a letter of intent to operate a start-up charter school;
- (2) The timely transmittal of the charter application form and completion guidelines to the governing board;
- (3) The timely submission of a completed charter application to the authorizer;
- (4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the governing board that the charter application is complete;
- (5) Upon receipt of a completed charter application, the convening of the commission, if applicable, by the commission chairperson to begin review of the charter application;
- (6) Following the submission of ~~an a~~ charter application, issuance of a charter or denial of the charter application by the authorizer or if submitted to the commission, by majority vote;
- (7) A provision for a final date by which a decision must be made, upon receipt of a complete application; and
- (8) A provision that no start-up charter school may begin operation before obtaining authorizer approval of its ~~charter and~~ charter contract.

(d) ~~An A~~ charter application to become a start-up charter school shall meet the requirements of this subsection and section -25. The charter application shall include the following:

- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
- (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty;
- (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;

(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;

(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:

(A) Recognizes the interests of the general public;

(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;

(C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and

(D) Provides for program audits and annual financial audits;

(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;

(7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;

(8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and

(9) A facilities plan.

(e) Any charter applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the charter application to the authorizer during a given cycle, as defined by the authorizer; provided that ~~an a~~ charter applicant shall have the right to appeal the authorizer's denial of its charter application pursuant to section -15.

(f) In reviewing ~~an a~~ charter application for a ~~charter~~ under this section, an authorizer shall take into consideration the constitution of the charter applicant's governing board, terms of governing board members, and the process by which governing board members were selected.

(g) In reviewing charter applications for a ~~charter~~ under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature.

§ -14 **Conversion charter schools; establishment.** (a) A conversion charter school may be established pursuant to this section.

(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a charter school, establish a governing board as its governing body, and develop ~~an~~ charter application pursuant to subsection (d).

(c) The conversion charter school application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

(1) The submission of a letter of intent to convert to a charter school;

(2) The timely transmittal of the charter application form and completion guidelines to the governing board;

(3) The timely submission of a completed charter application to the authorizer; provided that the charter application shall include certification and documentation that the charter application was approved by a majority of the votes cast by existing administrative, support, teaching personnel, and parents of students at the existing department school; provided that:

(A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;

(B) The balance of stakeholders represented in the vote and the broad support received in support of the conversion shall be a key factor in an authorizer's decision to award a charter; and

(C) A breakdown of the number of administrative, support, and teacher personnel, and parents that actually participated in the vote shall be provided to the authorizer;

(4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizers to the governing board that the charter application is complete;

(5) Upon receipt of a completed charter application, the convening of the commission, if applicable, by the commission chairperson to begin review of the charter application;

(6) Following the submission of ~~an~~ a charter application, issuance of a charter or denial of the charter application by the authorizer or if submitted to the commission, by majority vote;

(7) A provision for a final date by which a decision must be made upon receipt of a complete charter application; and

(8) A provision that no conversion charter school may begin operation before obtaining authorizer approval of its ~~charter and~~ charter contract.

(d) ~~An~~ A charter application to become a conversion charter school shall meet the requirements of this subsection and section -25. The charter application shall include the following:

(1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;

(2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty;

(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;

(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;

(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:

(A) Recognizes the interests of the general public;

(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;

(C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and

(D) Provides for program audits and annual financial audits;

(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;

(7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;

(8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and

(9) A facilities plan.

(e) A nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a conversion charter school, operate and manage the school, establish a governing board as its governing body, and develop an an-charter application pursuant to subsection (d); provided that:

(1) As the governing body of the conversion charter school, the governing board shall be the board of directors of the nonprofit organization and shall not be selected pursuant to section - 12. The nonprofit organization may also appoint advisory groups of community representatives

for each school managed by the nonprofit organization; provided that these groups shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;

(2) The charter application for each conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the nonprofit organization, and shall be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of the students of the existing department school; provided that:

(A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;

(B) The balance of stakeholders represented in the vote and the broad support received in support of the conversion shall be a key factor in an authorizer's decision to award a charter; and

(C) A breakdown of the number of administrative, support, and teacher personnel, and parents that actually participated in the vote shall be provided to the authorizer;

(3) The board of directors of the nonprofit organization, as the governing body for the conversion charter school that it operates and manages, shall have the same protections that are afforded to the board in its role as the conversion charter school governing body;

(4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that the nonprofit organization makes a minimum annual contribution of \$1 per pupil toward the operation of a conversion charter school for every \$4 per pupil allocated by the department of budget and finance for the operation of the conversion charter school; provided further that in no event shall the nonprofit organization be required to contribute more than the total required contribution per pupil per year. As used in this paragraph, "total required contribution" means:

(A) \$1,650 for school years 2012-2013 through 2015-2016; and

(B) \$1,815 for school years 2016-2017 through 2020-2021; and

(5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the charter school, the charter school may submit a revised charter application to the authorizer to continue as a conversion school without the participation of the nonprofit organization.

(f) Any nonprofit organization that seeks to manage or operate a conversion charter school as provided in subsection (e) shall comply with the following at the time of application:

(1) Have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;

(2) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;

(3) Comply with all applicable federal, state, and county laws, including licensure or accreditation, as applicable; and

(4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.

(g) Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to an authorizer to form a conversion charter school pursuant to this section.

(h) In reviewing an a charter application for a charter under this section, an authorizer shall take into consideration the constitution of the charter applicant's governing board, terms of governing board members, and the process by which governing board members were selected.

(i) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.

(j) Any charter applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the charter application to the authorizer during a given cycle, as defined by the authorizer, except as provided in subsection (e)(5); provided that an a charter applicant shall have the right to appeal the authorizer's denial of its charter application pursuant to section -15.

(k) In reviewing charter applications for a charter under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature.

§ -15 Appeals; charter school applications, ~~reauthorizations~~ renewals, or revocations. The board shall have the power to decide appeals of decisions by the commission or an authorizer to deny the approval of a charter ~~school~~ application, deny ~~reauthorization~~ renewal of a charter school, or revoke a charter school's charter. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter ~~school~~ application has been denied, whose ~~reauthorization~~ renewal has been denied, or whose charter has been revoked may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. The board may adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process.

§ -16 Performance framework. *(No proposed amendments to this section.)*

§ -17 **Ongoing oversight and corrective actions.** *(No proposed amendments to this section.)*

§ -18 **Renewals, revocations, and nonrenewals.** *(No proposed amendments to this section.)*

§ -19 **School closure and dissolution.** *(No proposed amendments to this section.)*

§ -20 **Charter transfers.** *(No proposed amendments to this section.)*

§ -21 **Annual board report.** *(No proposed amendments to this section.)*

§ -22 **Board as final arbitrator.** *(No proposed amendments to this section.)*

§ -23 **Minimum educational data reporting standards.** *(No proposed amendments to this section.)*

§ -24 **Occupancy and use of facilities of public schools.** *(No proposed amendments to this section.)*

§ -25 **Exemptions from state laws.** *(No proposed amendments to this section.)*

§ -26 **Civil service status; employee rights.** *(No proposed amendments to this section.)*

§ -27 **Administration of workers' compensation.** *(No proposed amendments to this section.)*

§ -28 **Funding and finance.** (a) Beginning with fiscal year 2012-2013, and each fiscal year thereafter, the non-facility general fund per-pupil funding request for charter school students shall be the same as the general fund per-pupil amount to the department in the most recently approved executive budget recommendation for the department and shall be based upon reasonable projected enrollment figures for all charter schools. The general fund per-pupil request for each regular education and special education student shall:

(1) Include all general fund regular education cost categories, including comprehensive school support services, but excluding special education services, adult education, and the after-school plus program; provided that these services are provided and funded by the department; and

(2) Exclude fringe benefit costs and debt service.

(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. 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 facility and other costs.

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

(c) Notwithstanding any law to the contrary, to ensure non-facility per-pupil general fund amounts allocated for the department and charter school students are equal on an annualized fiscal year basis, each year the ~~director of finance~~ board shall:

(1) Determine the sum of general fund appropriations made for department and charter school student non-facility costs described in subsections (a) and (b);

(2) Determine the sum of department and charter school student enrollment based on reviewed and verified student enrollment counts as of October 15;

(3) Determine a per-pupil amount by dividing the sum of general fund appropriations determined under paragraph (1) by the sum of student enrollment determined under paragraph (2);

(4) Transfer a general fund amount between the department and charter schools that will provide each with a per-pupil allocation equal to the amount determined on an annualized fiscal year basis under paragraph (3); and

(5) Annually account for all calculations and transfers made pursuant to this subsection in a report to the legislature, governor, department, and charter schools.

~~This subsection shall not limit the ability of the director of finance to modify or amend any allotment pursuant to chapter 37.~~

(d) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. The department shall provide the commission and authorizers 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 authorizers for distribution to the charter schools they authorize 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 governing boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the governing boards.

(e) Authorizers shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsections (a) and (c).

Authorizers shall submit a report to the legislature no later than twenty days prior to the convening of each regular session that contains each charter school's current school year projection that is used to submit the budget request, the updated May 15 enrollment projection, the actual October 15 enrollment count, the authorizer's reviewed and verified enrollment count, and the November 15 enrollment count.

(f) To enable charter schools to access state funding prior to the start of each school year, foster their fiscal planning, enhance their accountability, and avoid over-allocating general funds to charter schools based on self-reported enrollment projections, authorizers shall:

(1) Provide sixty 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 its authorizer a projected student enrollment no later than May 15 of each year;

(2) Provide an additional thirty per cent of a charter school's per-pupil allocation no later than December 1 of each year, based on the October 15 student enrollment, as reviewed and verified by the authorizer, only to schools in compliance with all financial reporting requirements; and

(3) Retain no more than the balance of the remaining ten per cent of a charter school's per-pupil allocation, as a contingency balance to ensure fiscal accountability and compliance, no later than June 30 of each year;

provided that the board 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, the board's administrative procedures, and board-approved accountability requirements.

(g) 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.

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

(i) Funds distributed to charter schools shall be considered expended.

~~§ 29 Weighted student formula. (a) Notwithstanding section 28, charter schools shall elect whether to receive allocations calculated according to the department's procedures and methodology used to calculate the weighted student formula allocation adopted pursuant to section 302A-1303.6; provided that:~~

~~(1) All charter schools, as a group, with each governing board being accorded one vote, shall elect, by greater than two-thirds agreement among the governing boards, whether to receive allocations calculated through the department's procedures and methodology for the weighted student formula; provided that a nonprofit organization that governs more than one conversion charter school may cast one vote representing each school it governs;~~

~~(2) Any election by charter schools to receive allocations, or not to receive allocations, calculated through the procedures and methodology for the department's weighted student formula shall be made by September 1 of each even-numbered year, and the election shall apply to the fiscal biennium beginning July 1 of the following year.~~

~~(b) The charter schools, through their authorizer, may propose to the board an alternative weighted student formula, approved by more than two-thirds of the governing boards, with each governing board being accorded one vote, to be administered by the commission and to apply to the per pupil allocation for charter schools.~~

§ ~~2930~~ **Responsibilities of the department; special education services.** *(No proposed amendments to this section.)*

§ ~~3031~~ **Sports.** *(No proposed amendments to this section.)"*

SECTION 3. (a) There is established a charter school administrative office, hereinafter referred to as the office, which shall be attached to the department of education for administrative purposes only. The office shall be administered by an executive director, who shall be appointed without regard to chapters 76 and 89, Hawaii Revised Statutes, by the state public charter school commission based upon the recommendations of an organization of charter schools operating within the State or from a list of nominees submitted by the charter schools. The state public charter school commission shall hire the executive director, who may be contracted for a term of up to one year; shall offer the executive director a written contract; and may terminate the executive director's contract only for cause; provided that the executive director's contract shall automatically terminate upon the repeal of this section. The executive director, with the approval of the state public charter school commission, may hire necessary staff without regard to chapters 76 and 89, Hawaii Revised Statutes, to assist in the administration of the office.

(b) The executive director, under the direction of the state public charter school commission, ~~and in consultation with the charter schools,~~ shall be responsible for the internal organization, operation, and management of the charter school system, including:

(1) Preparing and executing the budget and the capital improvement projects request for the charter schools, including submission of the all means of finance budget request that reflects all anticipated expenditures to the state public charter school commission, the board of education, the governor, and the legislature; provided that, in preparing the budget request with regard to needs-based facilities funding, the executive director shall ensure that, as a budget item separate from other operating costs, the request is accompanied by a detailed explanation of the formula used and a funding request breakdown by school;

(2) Allocating annual appropriations to the charter schools and distribution of federal funds to charter schools;

(3) Complying with applicable state laws related to the administration of the charter schools;

(4) Preparing contracts between the charter schools and the department of education for centralized services to be provided by the department of education;

(5) Preparing contracts between the charter schools and other state agencies for financial or personnel services to be provided by the agencies to the charter schools;

(6) Providing independent analyses and recommendations on charter school issues;

(7) Representing charter schools and the charter school system in communications with the board of education, the governor, and the legislature;

(8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;

(9) Providing guidance and assistance to charter applicants and charter schools to enhance the completeness and accuracy of information for state public charter school commission review;

(10) Assisting charter applicants and charter schools in coordinating their interactions with the state public charter school commission, as needed;

(11) Assisting the state public charter school commission to coordinate with charter schools in state public charter school commission investigations and evaluations of charter schools;

(12) Serving as the conduit to disseminate communications from the state public charter school commission, the board of education, and the department of education to all charter schools;

(13) Determining charter school system needs and communicating those needs to the state public charter school commission, the board of education, and the department of education; and

~~(14) Establishing a dispute resolution and mediation process; and~~

(14~~5~~) Upon request by one or more charter schools, assisting in the negotiation of a collective bargaining agreement with the exclusive representative of its employees.

(c) The executive director shall be evaluated annually by the state public charter school commission. The annual evaluation shall be conducted sufficiently in advance of the end of a term to provide the executive director the opportunity to respond to concerns and improve performance.

(d) The office shall withhold funds for its operational expenses, including the salaries of the executive director and staff, from the annual charter school general fund appropriation. The total amount of operational expenses withheld:

(1) Shall not exceed two per cent of the annual charter school general fund allocation, which shall not include any funds carried over from previous years;

(2) Shall not include the amount of funds withheld under subsections (g) and (h); and

(3) Shall be determined annually by the state public charter school commission.

~~The salaries of the executive director and staff shall be set by the state public charter school commission based upon the recommendations of charter schools within the State and in accordance with the requirements of this subsection. The salary of the executive director shall be set by the state public charter school commission. The executive director shall establish the positions and set the salaries of the staff in accordance with chapter 89C.~~

(e) The office shall report annually to the state public charter school commission individual and aggregate expenditures of charter schools, clearly distinguishing between expenditures for operational purposes and for instructional purposes. The office shall adopt rules to develop a standardized method for charter schools to report the expenditures and to determine expenditures that constitute expenditures for operational expenses and expenditures for instructional purposes. If any charter school fails to meet the reporting requirements under this subsection, the office may retain a portion of that charter school's per-pupil allocation pursuant to section 28.

(f) The office shall include in its annual budget request additional funds to cover the estimated costs of:

(1) Vacation and sick leave accrued by employees transferring to a charter school from another state agency or department;

(2) Substitute teachers needed when a teacher is out on vacation or sick leave;

(3) Adjustments to enrollments; and

(4) Arbitration in the grievance process.

(g) The office shall withhold funds for charter school enrollments that are inconsistent with approved charter contracts entered into pursuant to chapter , Hawaii Revised Statutes.

(h) The office shall withhold funds to repay overpayments or over-allocations received by charter schools when not repaid in a timely manner in accordance with rules adopted by the board of education.

(i) The office may carry over funds from previous year allocations. Funds distributed to charter schools shall be considered expended.

(i) The office may provide for the staff support for the commission.

PART III

SECTION 4. *(No proposed amendments to this section.)*

SECTION 5. *(No proposed amendments to this section.)*

SECTION 6. *(No proposed amendments to this section.)*

SECTION 7. *(No proposed amendments to this section.)*

SECTION 8. *(No proposed amendments to this section.)*

SECTION 9. *(No proposed amendments to this section.)*

SECTION 10. *(No proposed amendments to this section.)*

SECTION 11. Section 302A-1302, Hawaii Revised Statutes, is amended to read as follows:

§302A-1302 School-based budget flexibility. (a) Beginning with the 1995-1997 fiscal biennium, the department shall implement school-based budget flexibility for schools, complexes, and learning support centers. The flexibility shall be limited to the school-based budgeting program EDN 100 of the department for all schools except charter schools.

(b) Beginning in fiscal year 2006-2007, [and every year thereafter,] the office shall distribute the allocations due to a charter school directly to the charter school.

(c) Beginning in fiscal year , and every year thereafter, the authorizer shall distribute the allocations due to a charter school directly to the charter school.

-SECTION 4+12. Section 302A-1303.6, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1303.6 Weighted student formula. Based upon recommendations from the committee on weights, the board of education, not less than once every odd-numbered year, shall adopt a weighted student formula for the allocation of moneys to public schools that takes into

account the educational needs of each student. The department, upon the receipt of appropriated moneys, shall use the weighted student formula to allocate funds to public schools. Principals shall expend moneys provided to the principals' schools. This section shall not apply to charter schools, only apply to charter schools for fiscal years in which the charter schools elect pursuant to section [302B-13] ~~29~~ to receive allocations according to the weighted student formula."

SECTION ~~12~~13. *(No proposed amendments to this section.)*

SECTION ~~13~~14. *(No proposed amendments to this section.)*

SECTION ~~14~~15. *(No proposed amendments to this section.)*

SECTION ~~15~~16. *(No proposed amendments to this section.)*

PART IV

SECTION ~~16~~17. *(No proposed amendments to this section.)*

SECTION ~~17~~18. *(No proposed amendments to this section.)*

SECTION ~~18~~19. *(No proposed amendments to this section.)*

SECTION ~~19~~20. *(No proposed amendments to this section.)*

SECTION ~~20~~21. *(No proposed amendments to this section.)*

SECTION ~~21~~22. This Act shall take effect upon its approval; provided that section 3 of this Act shall be repealed on July 1, 201~~4~~3.

SECTION 23. All rights, powers, functions, and duties of the charter school administrative office as established pursuant to section 3 of this Act are transferred to the commission upon the effective repeal of section 3.

All officers and employees whose functions are transferred by this section shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
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<http://hawaii.gov/spo>

TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEE
ON
FINANCE

March 29, 2012

5:30 PM

SB 2115, SD2, HD1

RELATING TO CHARTER SCHOOLS.

Chair Oshiro, Vice-Chair Lee, and members of the committee, thank you for the opportunity to submit testimony on SB 2115, SD2, HD1. The State Procurement Office's (SPO) comments are limited to SECTION 2 which includes an exemption from HRS chapter 103D, Hawaii Public Procurement Code (Code), for charter schools, their commission and authorizer.

The SPO 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 SPO opposes the language on page 58, new section -25 on exemptions from state laws, paragraph (b), lines 21-22, and page 59 lines 1 to 12. Thank you.



SB2115 SD2 HD1
RELATING TO CHARTER SCHOOLS
House Committee on Finance

March 29, 2012

5:30 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB2115 SD2 HD1, which 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.

OHA recommends that § -14(e)(5) be amended to provide language allowing the school community the opportunity to disengage from the nonprofit organization. This language will give conversion school communities like Kamaile and Waimea the opportunity to reorganize and submit revised applications to the charter school commission, which it cannot currently do.

Conversion charter schools are truly community schools, as they serve the community where they have been situated for years. The relationships, talents, and resources within those local communities deserve democratic input and participation, especially with respect to governance. OHA urges consideration of our recommendations regarding the governance of conversion charter schools.

Mahalo for this opportunity to provide testimony.



KAMEHAMEHA SCHOOLS®

House Finance Committee

March 29 2012

5:30 p.m.

Capitol Room 308

SB 2115 SD2 HD1, 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 SB 2115 SD2 HD1, relating to charter schools.

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 Panana Leo, OHA, KALO and the Ho'okako'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.



KAMEHAMEHA SCHOOLS®

Position on the Recommendations of the Charter School Governance Task Force SB 2115 SD2 HD1

Kalei Kailihiwa
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 our concerns only regarding proposed legislation:

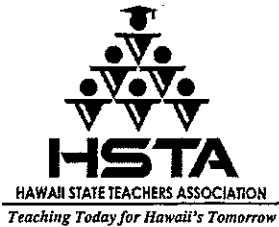
1. Innovative Community-based Education. The overarching task force goals reiterated the original intentions of Hawaii's charter school law, therefore please consider retaining language from Hawaii's original public charter school bill (Act 62/1999) as a way to make explicit, the intent of charter schools 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"*



KAMEHAMEHA SCHOOLS®

2. **Criminal Immunity of Authorizers.** We **express concern** and reservation with respect to the exemption from **criminal liability** for authorizers (**bill page 17**). While we appreciate the efforts of the Legislature to address this concern by inserting an exception to immunity for “acts or omissions constituting willful misconduct” we believe that authorizers should be held to the highest level of accountability to promote integrity in the charter school community. Thus, we respectfully request authorizers not be granted statutory criminal immunity.

3. **Funding Mechanisms.** We appreciate the Legislature’s intent to provide **accountability measures** between the charter schools and relevant government agencies (**bill page 62**). Upon reviewing this legislation and the current proposed state budget, it appears that a **funding mechanism** has not yet been identified to provide necessary “resources and staff” for the Charter School Commission, as stated in the SB2115 (**page 12**). Finally, we **encourage continued dialogue** with legislators and stakeholders regarding additional methods to improve accountability and provide mechanisms to ensure equitable distribution of facilities and federal funding allocations.



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President
Karolyn Mossman
Vice President
Joan Kamila Lewis
Secretary-Treasurer
Alvin Nagasako
Executive Director

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
FINANCE**

RE: SB 2115, SD2 – RELATING TO CHARTER SCHOOLS

March 29, 2012

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Oshiro and Members of the Committee:

The Hawaii State Teachers Association has many concerns about the current form of SB 2115, SD 2, HD1. We continue to believe that a meeting with labor representatives should be held to address lingering doubts about charter school employment, as was suggested in task force meetings, thereby giving charter school teachers an opportunity to weigh in on proposed changes to the state's charter school chapter. Our teachers work under the conditions of HRS §302B, many of whom feel that ongoing discussion would provide better insight to the challenges they have faced.

The proposed legislation repeals HRS §302B and replaces it with new, substantively different language. We remain opposed to the elimination of §302B-4, which caps the number of new and conversion charters. Given that revamping the charter school statutory scheme is driven largely by well-publicized mistakes made in charter school administration, we feel that it would be ill-advised to lift the cap on the authorized number of charters without first ensuring that existing charters comport with current law and fulfill their educational missions. Additionally, prior to authorizing a cap increase, we urge you to couple new statutes with monitoring and reporting



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requirements to allow lawmakers an opportunity to assess the efficacy of reforms. Funding limitations have hampered existing charter schools, as well as their traditional public school brethren. Adding more charters at a time of fiscal austerity would dilute the scarce resources available for increasing these schools' achievement levels.

Moreover, we oppose the establishment of a new public charter school commission that may exclude teachers. To rectify this problem, we encourage you to amend the bill to include all stakeholders, including teachers, as currently provided under 302B-3. We are also concerned that the elimination of HRS 302B-7, which ensures equitable representation among stakeholders, could lead to schools making decisions based more on money than student needs. The same goes for eliminating teachers as required representatives on charter school boards, which, if enacted, would silence the voices of those who are most experienced with managing classroom experience.

We are pleased that the measure includes “employee rights” and includes language regarding supplemental agreements. Charters must properly recognize the exclusive representative of each bargaining unit for collective bargaining purposes. On a similar note, we support the establishment of performance contracts for a set period of time and reforms that ensure greater accountability and transparency. We believe that new or conversion charter schools should clearly demonstrate, in their financial plans, the ability to sustain costs related to personnel.



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We entreat you to allow more time for stakeholders to weigh in on areas of concern. We also ask that you solicit feedback from teachers on proposed changes before making a final decision on this measure.

Thank you for this opportunity to comment on this bill.



Hawaii State House of Representatives
Committee on Finance
DATE: Wednesday, March 29, 2012
TIME: 5:30 p.m.
PLACE: Conference Room 308
State Capitol

Chair Oshiro, Vice Chair Lee, and members of the Committee on Finance,

Re: SB2115 SD2 HD1 & SB2116 SD2, 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.

Generally speaking, SB 2115 SD2 HD1 is a continuing work in progress, and the various stakeholders are continuing to provide input to craft the best legislation possible. While most of the amendments HPCSN advocates for are technical and clarifying in nature, there are a few substantive amendments that we would like to see the committee adopt. A proposed HD2 with mark up and comments is attached for your reference, but to highlight some of the more important points:

In Section 2 of SB 2115 SD2 HD1, which establishes the new chapter on charter schools, when looking at § -10, we believe that the National Governor's Association (NGA) offered language that better addresses the procurement of services from an authorizer. While we agree that the authorizer should be able to provide technical assistance to a charter school for federal funding purposes, we are hesitant to create a situation where purchases of services by charter schools may create an unjustified reliance that reauthorization or renewal of a charter contract would somehow be enhanced or guaranteed.

In Section 2 of SB 2115 SD2 HD1, which establishes the new chapter on charter schools, when looking at § -15, we are suggesting the additional language to increase the scope of power to review appeals by the board of education to more efficiently address other important issues of disagreement between the department and charter schools. Language in previous versions of this bill may have been too broad, and this language is an attempt to narrow the scope of previous language while establishing a non-judicial means of resolving these matters.

In Section 2 of SB 2115 SD2 HD1, which establishes the new chapter on charter schools, when looking at § -17, subparagraph (d), we believe that these additions are consistent with the overall goal of striking a balance between innovation space and accountability.

In Section 2 of SB 2115 SD2 HD1, which establishes the new chapter on charter schools, when looking at § -21, the language we advocate to remove is meant to make comparative data more relevant as many charter schools tend to attract students from outside of a particular geographic location. For instance, a comparison of the performance of students at Voyager PCS vis a vis the performance of a comparable group of students based on geography would be near useless as Voyager attracts families from all over the island of Oahu. The language we advocate to add would help bring such comparative data into a clearer context as a charter school may feel a performance comparison with a differing group of students using the same criteria as the board uses presents a clearer and better comparison. The new language does not preclude the situation where the board and a charter school agree on the groups compared.

In Section 2 of SB 2115 SD2 HD1, which establishes the new chapter on charter schools, when looking at § -28, we advocate for language that will clarify a long-standing situation. Previous language created an ambiguity where the charter school administrative office, the legislature, and the administration all interpreted the language differently based on the point in time of the budget process. It is our hope that this language clarifies any confusion, and more clearly expresses the intent of charter school funding equity.

SB2116 SD2

We would also request adequate funding to support the Transition Coordinator's lengthy list of responsibilities.

Conclusion

With change, 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. **Please consider funding the needs based facilities request made by the CSAO on behalf of the schools using funds from the "under/over appropriations" account.**

There are a number of national funding models to support charter school students that would significantly improving support 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.

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.

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, and thank you for your hard work in the continued crafting of this comprehensive reform to our charter school law.

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

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

Lynn Finnegan
Executive Director

Attachment

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO.

2115
S.D. 2
H.D.
H.D.2

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that the charter school governance, accountability, and authority task force ("task force") was established pursuant to section 7 of Act 130, Session Laws of Hawaii 2011 in response to questions and concerns raised by policy makers and advocates alike about the integrity of Hawaii's charter school governance structure and the overall strength of Hawaii's laws in establishing clear lines of authority that ensured accountability of the charter school system.

Specifically, the goal of the task force was to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of Hawaii's charter school system, including the board of education, department of education, charter school administrative office, charter school review panel, and local school boards.

In conducting its work, the task force looked at various sections of the charter school model law put forth by the National Alliance for Public Charter Schools and used the model law as a guide in compiling its recommendations to the legislature.

The task force was also fortunate to have the assistance and input of the National Association of Charter School Authorizers and the National Governors Association.

After in-depth examination and discussion, the task force concluded its work and issued its report and recommendations to the legislature.

Comment [L1]: To retain the original intent of charter schools in Hawaii, please clarify in the committee report that this bill holds the original intent of 302B.

o a new approach to education that is free of bureaucratic red tape and accommodates the individual needs of students to allow the State to dramatically improve its educational standards for the twenty-first century. o a school should otherwise be free from statutory and regulatory requirements that tend to inhibit or restrict a school's ability to make decisions relating to the provision of educational services to the students attending the school.

The purpose of this Act is to adopt the recommendations of the task force by repealing chapter 302B, Hawaii Revised Statutes, and establishing a new charter school law that creates a solid governance structure for Hawaii's charter school system with clear lines of authority and accountability that will foster improved student outcomes.

The legislature finds that this Act will support 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. This Act will create genuine opportunities for communities to implement innovative models of community-based education.

PART II

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

PUBLIC CHARTER SCHOOLS

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

"Application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status.

"Authorizer" means an entity authorized under this chapter to review applications, decide whether to approve or reject charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, reauthorize, or reject charter contracts. The term may include the commission when appropriate.

"Board" means the board of education.

"Charter contract" means a fixed-term, bilateral, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

"Charter school" or "public charter school" refers to those public schools and their respective governing boards, as defined in this section, that are holding charters to operate as charter schools under this chapter, including start-up and conversion charter schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management.

"Commission" means the state public charter school commission established pursuant to -3 as a statewide authorizer.

"Conversion charter school" means:

- (1) Any existing department school that converts to a charter school and is managed and operated in accordance with section -14;
- (2) Any existing department school that converts to a charter school and is managed and operated by a nonprofit organization in accordance with section -14; or
- (3) A newly created school consisting of programs or sections of existing public school populations that are funded and governed independently and may include part of a separate Hawaiian language immersion program using existing public school facilities.

"Department" means the department of education.

"Executive director" means the executive director of the state public charter school commission.

"Governing board" means the independent board of a public charter school that is party to the charter contract with the authorizer that:

- (1) Is responsible for the financial, organizational, and academic viability of the charter school and implementation of the charter;
- (2) Possesses the independent authority to determine the organization and management of the school, the curriculum, and virtual education;
- (3) Has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees and is considered the employer of charter school employees for purposes of chapters 76, 78, and 89; and
- (4) Ensures compliance with applicable state and federal laws.

"Nonprofit organization" means a private, nonprofit, tax-exempt entity that:

- (1) Is recognized as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and
- (2) Is domiciled in this State.

"Organizational viability" means that a charter school substantially:

- (1) Has been duly constituted and operates in accordance with its charter;
- (2) Has a governing board established in accordance with law and the charter school's charter;

Comment [L2]: By adding "substantially" we are attempting to allow discretion to the commission/authorizer to recognize organizational viability in the face of a small technical violation.

(3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;

(4) Maintains accurate and comprehensive records regarding students and employees as determined by its authorizer;

(5) Meets appropriate standards of student achievement as defined by the board pursuant to its duties under article X, section 3, of the Constitution of the State of Hawaii;

(6) Cooperates with board, commission, and authorizer requirements in conducting its functions;

(7) Complies with applicable federal, state, and county laws and requirements;

(8) In accordance with authorizer guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;

(9) Operates within the scope of its charter and fulfills obligations and commitments of its charter;

(10) Complies with all health and safety laws and requirements;

(11) Complies with all commission ~~and~~ authorizer directives, policies, and procedures; and

(12) Complies with all board policies deemed applicable to charter schools by the board, ~~consistent with state law and the applicable charter contracts.~~

"Start-up charter school" means a new school established under section -13.

§ -2 Existing charter schools. Any charter school holding a charter to operate under part IV, subpart D, of chapter 302A, as that subpart existed before July 11, 2006, and any charter school holding a charter to operate under chapter 302B as it existed before the enactment of this chapter, shall be considered a charter school for the purposes of this chapter under a charter contract with the commission unless the charter contract is revoked, transferred to another authorizer, or not renewed, or the charter school voluntarily closes.

§ -3 State public charter school commission; establishment; appointment. (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 shall be subject to chapter 92.

(b) The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

Comment [L3]: This implies that when there are multiple authorizers, a school that is being monitored by an authorizer would also be subject to the directives, policies, and procedures of the commission.
We believe that it should be one or the other.

Comment [L4]: The commission/authorizer is best familiar with each school's contract. We propose clarification language that board policies that include application to charter schools be consistent with state law and charter contracts.

(c) The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders.

(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such.

(e) Each nominee to the commission shall ideally meet the following recommended qualifications:

(1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and

(2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding commission policies.

(f) Five members of the commission shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the commission valid.

(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012, shall be staggered as follows:

- (1) Three members, including the chairperson, to serve three-year terms;
- (2) Three members to serve two-year terms; and
- (3) Three members to serve one-year terms.

(h) Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

(i) Commission members shall receive no compensation. When commission duties require that a commission member take leave of the member's duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to fulfill that member's duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.

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

(k) The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter.

§ -4 Chartering authority application for eligible entities. (a) The commission created under section -3 may authorize public charter schools anywhere in the State.

(b) Governing boards of accredited public and private postsecondary institutions, including community colleges, technical colleges, and four-year universities may apply to the board, pursuant to this section, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.

(c) A county or state agency may apply to the board, pursuant to this section, for chartering authority;

(d) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the board, and may be granted statewide chartering authority. Nonpublic sectarian or religious organizations and any other charitable organization which in their federal Internal Revenue Service Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer under this chapter.

(e) The board shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to this section. Following the adoption of administrative rules, by June 30 of each year, the board shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this chapter. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

(1) Written notification of intent to serve as a charter authorizer in accordance with this chapter;

(2) The applicant entity's strategic vision for chartering;

(3) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this chapter;

(4) A draft or preliminary outline of the request for proposals that the applicant entity, if approved as a charter authorizer, would issue to solicit public charter school applicants;

(5) A draft of the performance framework that the applicant entity, if approved as a charter authorizer, would use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this chapter;

(6) A draft of the applicant entity's renewal, revocation, and nonrenewal processes, consistent with section -18;

(7) A statement of assurance that the applicant entity seeks to serve as a charter authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as a charter authorizer, the entity will fully participate in any authorizer training provided or required by the State; and

(8) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures.

(f) By June 30 of each year, the board shall decide whether to grant or deny chartering authority to each applicant. The board shall make its decisions on the merits of each applicant's proposal and plans.

(g) Within days of the board's decision, the board shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this chapter, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

(h) This section shall not apply to the commission.

§ -5 Authorizer powers, duties, and liabilities. (a) Authorizers are responsible for executing the following essential powers and duties:

(1) Soliciting and evaluating charter applications;

(2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;

(3) Declining to approve weak or inadequate charter applications;

(4) Negotiating and executing sound charter contracts with each approved public charter school;

(5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and

(6) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(b) An authorizer shall:

(1) Act as the point of contact between the department and a public charter school it authorizes and be responsible for the administration of all applicable state and federal laws;

(2) Be responsible for and ensure compliance of a charter school it authorizes with all applicable state and federal laws, including reporting requirements;

(3) Be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes; and

(4) Be responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes.

(c) An authorizing entity may delegate its duties to officers, employees, and contractors.

(d) Regulation by authorizers shall be limited to the powers and duties set forth in this section, and shall be consistent with the spirit and intent of this chapter.

(e) An authorizing entity, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school authorized by that entity, except for any acts or omissions constituting wilful misconduct.

(f) An authorizer shall not provide technical support to a charter school it authorizes in cases where the technical support will impact any authorizer decision related to the authorization, renewal, revocation, or nonrenewal of the charter school.

§ -6 Principles and standards for charter authorizing. All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including:

- (1) Organizational capacity and infrastructure;
- (2) Soliciting and evaluating charter applications;
- (3) Performance contracting;
- (4) Ongoing public charter school oversight and evaluation; and
- (5) Charter renewal decision-making.

Authorizers shall carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.

§ -7 Authorizer reporting. Every authorizer shall be required to submit to the board and the legislature an annual report summarizing:

- (1) The authorizer's strategic vision for chartering and progress toward achieving that vision;
- (2) The academic and financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this chapter;
- (3) The status of the authorizer's public charter school portfolio, identifying all public charter schools in each of the following categories: approved (but not yet open), not approved, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;
- (4) The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles;
- (5) The services purchased from the authorizer by the public charter schools under its purview, including an itemized accounting of the actual costs of these services, as required in section -10;

(6) A line-item breakdown of the federal funds received by the department and distributed by the authorizer to public charter schools under its control; and

(7) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools.

§ -8 **Conflict of interests.** No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a public charter school authorized by that authorizer.

§ -9 **Exclusivity of authorizing functions and rights.** No governmental or other entity, other than those expressly granted chartering authority as set forth in this chapter, may assume any charter authorizing function or duty in any form, unless expressly allowed by law.

§ -10 **Services purchased from authorizer; itemized accounting.** (a) No public charter school shall be required to purchase services from its authorizer as a condition of charter approval or renewal or of executing a charter contract, nor may any such condition be implied.

(b) A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school. An authorizer may not charge more than market rates for services provided to a public charter school.

(c) Within _____ days after the end of each fiscal year, each authorizer shall provide to each public charter school it oversees an itemized accounting of the final invoiced amount of services purchased by the public charter school from the authorizer. Any difference between the amount initially charged to the public charter school and the final invoiced amount shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in the accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by the board whose determination shall be final.

§ -11 **Oversight of public charter school authorizers.** (a) The board shall be responsible for overseeing the performance and effectiveness of all authorizers established under this chapter.

(b) In accordance with section -7, every authorizer shall submit to the board and the legislature an annual report. The board shall, by _____ of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.

(c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the board. In reviewing or evaluating the performance of authorizers the board shall apply nationally recognized principles

Comment [L5]: We believe that NGA is offering language that better addresses this area. We agree that the authorizer should be able to provide technical assistance for federal funding purposes, but hesitate to foster unjustified reliance on purchases of services by charter schools equaling reauthorization/renewal of a contract.

and standards for quality charter authorizing. If at any time the board finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the board, or the requirements of all authorizers under this chapter, the board shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond to and remedy the problems.

(d) If an authorizer persists, after due notice from the board, in violating a material provision of a charter contract or its authorizing contract with the board, or fails to remedy other identified authorizing problems, the board shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(e) In the event of revocation of any authorizer's chartering authority, the board shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the State, with the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer shall enter into a new contract with the charter school for the remainder of the charter term.

§ -12 Charter school governing boards; powers and duties. (a) No more than thirty per cent of the members of a governing board shall be employees of a school or relatives of employees of a school under the jurisdiction of that governing board; provided that the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a charter school may serve as an ex officio, non-voting member of the governing board. In selecting members, consideration shall be given to persons who:

- (1) Demonstrate an understanding of best practices of non-profit governance;
- (2) Possess strong financial management, academic knowledge and oversight, human resources, and fundraising experience; and
- (3) Provide the governing board with a diversity of perspective and a level of objectivity that accurately represent the interests of the charter school students and the surrounding community.

(b) No employee of a charter school or relative of an employee of a charter school may serve as the chair of the governing board of that charter school; provided that an authorizer may grant an exemption from the provisions of this subsection based upon a determination by the authorizer that an exemption is in the best interest of the charter school.

(c) The governing board shall be the independent governing body of its charter school and shall have oversight over and be responsible for the financial, organizational, and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The governing board shall ensure its school complies with the terms of the charter contract between the commission or authorizer and the school. The governing board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.

(d) Governing boards shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Governing boards and charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.

(e) Charter schools and their governing boards shall be exempt from the requirements of chapters 91 and 92. The governing boards shall:

(1) Make available the notices and agendas of public meetings:

(A) At a publicly accessible area in the governing board's office and the authorizer's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the authorizer's internet website not less than six calendar days prior to the public meeting, unless a waiver is granted by the authorizer or authorizer's designee in the case of an emergency; and

(2) Make available the minutes from public meetings within thirty days and maintain a list of the current names and contact information of the governing board's members and officers:

(A) In the governing board's office and the authorizer's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the authorizer's internet website.

(f) Charter schools and governing boards shall be exempt from chapter 84; provided that they shall develop internal policies and procedures for gifts, confidential information, fair treatment, conflicts of interest, and contracts consistent with the goals of the state ethics code, pursuant to chapter 84. Charter schools and governing boards are encouraged to use the provisions of chapter 84 where possible; provided that the use of one or more provisions of chapter 84 shall not constitute a waiver of the exemption from chapter 84 and shall not subject the charter school or governing board to any other provision of chapter 84.

(g) The State shall afford the governing board of any charter school the same protections as the State affords the board.

(h) For purposes of this section, "employees" shall include the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a school.

§ -13 Start-up charter schools; establishment. (a) New start-up charter schools may be established pursuant to this section.

(b) Any community, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to form a charter school, establish a governing board as its governing body, and develop an application pursuant to subsection (d).

(c) The start-up charter school application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

- (1) The submission of a letter of intent to operate a start-up charter school;
- (2) The timely transmittal of the application form and completion guidelines to the governing board;
- (3) The timely submission of a completed application to the authorizer;
- (4) The timely review of the application by the authorizer for completeness, and notification by the authorizer to the governing board that the application is complete;
- (5) Upon receipt of a completed application, the convening of the commission, if applicable, by the commission chairperson to begin review of the application;
- (6) Following the submission of an application, issuance of a charter or denial of the application by the authorizer or if submitted to the commission, by majority vote;
- (7) A provision for a final date by which a decision must be made, upon receipt of a complete application; and
- (8) A provision that no start-up charter school may begin operation before obtaining authorizer approval of its charter and charter contract.

(d) An application to become a start-up charter school shall meet the requirements of this subsection and section -25. The application shall include the following:

- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
- (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty;
- (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;
- (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
- (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:

(A) Recognizes the interests of the general public;

(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;

(C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and

(D) Provides for program audits and annual financial audits;

(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;

(7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;

(8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and

(9) A facilities plan.

(e) Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the application to the authorizer during a given cycle, as defined by the authorizer; provided that an applicant shall have the right to appeal the authorizer's denial of its application pursuant to section -15.

(f) In reviewing an application for a charter under this section, an authorizer shall take into consideration the constitution of the applicant's governing board, terms of governing board members, and the process by which governing board members were selected.

(g) In reviewing applications for a charter under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature.

§ -14 Conversion charter schools; establishment. (a) A conversion charter school may be established pursuant to this section.

(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a charter school, establish a governing board as its governing body, and develop an application pursuant to subsection (d).

(c) The conversion charter school application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

(1) The submission of a letter of intent to convert to a charter school;

(2) The timely transmittal of the application form and completion guidelines to the governing board;

(3) The timely submission of a completed application to the authorizer; provided that the application shall include certification and documentation that the application was approved by a majority of the votes cast by existing administrative, support, teaching personnel, and parents of students at the existing department school; provided that:

(A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;

(B) The balance of stakeholders represented in the vote and the broad support received in support of the conversion shall be a key factor in an authorizer's decision to award a charter; and

(C) A breakdown of the number of administrative, support, and teacher personnel, and parents that actually participated in the vote shall be provided to the authorizer;

(4) The timely review of the application by the authorizer for completeness, and notification by the authorizers to the governing board that the application is complete;

(5) Upon receipt of a completed application, the convening of the commission, if applicable, by the commission chairperson to begin review of the application;

(6) Following the submission of an application, issuance of a charter or denial of the application by the authorizer or if submitted to the commission, by majority vote;

(7) A provision for a final date by which a decision must be made upon receipt of a complete application; and

(8) A provision that no conversion charter school may begin operation before obtaining authorizer approval of its charter and charter contract.

(d) An application to become a conversion charter school shall meet the requirements of this subsection and section -25. The application shall include the following:

(1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;

(2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty;

(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;

(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;

(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:

(A) Recognizes the interests of the general public;

(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;

(C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and

(D) Provides for program audits and annual financial audits;

(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;

(7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;

(8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and

(9) A facilities plan.

(c) A nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a conversion charter school, operate and manage the school, establish a governing board as its governing body, and develop an application pursuant to subsection (d); provided that:

(1) As the governing body of the conversion charter school, the governing board shall be the board of directors of the nonprofit organization and shall not be selected pursuant to section - 12. The nonprofit organization may also appoint advisory groups of community representatives for each school managed by the nonprofit organization; provided that these groups shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;

(2) The application for each conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the nonprofit organization, and shall be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of the students of the existing department school; provided that:

(A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;

(B) The balance of stakeholders represented in the vote and the broad support received in support of the conversion shall be a key factor in an authorizer's decision to award a charter; and

(C) A breakdown of the number of administrative, support, and teacher personnel, and parents that actually participated in the vote shall be provided to the authorizer;

(3) The board of directors of the nonprofit organization, as the governing body for the conversion charter school that it operates and manages, shall have the same protections that are afforded to the board in its role as the conversion charter school governing body;

(4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that the nonprofit organization makes a minimum annual contribution of \$1 per pupil toward the operation of a conversion charter school for every \$4 per pupil allocated by the department of budget and finance for the operation of the conversion charter school; provided further that in no event shall the nonprofit organization be required to contribute more than the total required contribution per pupil per year. As used in this paragraph, "total required contribution" means:

(A) \$1,650 for school years 2012-2013 through 2015-2016; and

(B) \$1,815 for school years 2016-2017 through 2020-2021; and

(5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the charter school, the charter school may submit a revised application to the authorizer to continue as a conversion school without the participation of the nonprofit organization.

(f) Any nonprofit organization that seeks to manage or operate a conversion charter school as provided in subsection (e) shall comply with the following at the time of application:

(1) Have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;

(2) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;

(3) Comply with all applicable federal, state, and county laws, including licensure or accreditation, as applicable; and

(4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.

(g) Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to an authorizer to form a conversion charter school pursuant to this section.

(h) In reviewing an application for a charter under this section, an authorizer shall take into consideration the constitution of the applicant's governing board, terms of governing board members, and the process by which governing board members were selected.

(i) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.

(j) Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the application to the authorizer during a given cycle, as defined by the authorizer, except as provided in subsection (e)(5); provided that an applicant shall have the right to appeal the authorizer's denial of its application pursuant to section -15.

(k) In reviewing applications for a charter under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature.

§ -15 Appeals; charter school applications, reauthorizations, or revocations; level of services and funding.

(a) The board shall have the power to decide appeals of decisions by the commission or an authorizer to deny the approval of a charter school application, deny reauthorization of a charter school, or revoke a charter school's charter. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter school application has been denied, whose reauthorization has been denied, or whose charter has been revoked may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. The board may adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process.

Comment [L6]: We are suggesting to add (b) to efficiently address other important issues of disagreement between the department and charter schools. The language of previous versions may have been too broad. This is an attempt to narrow the scope while establishing a non-judicial means of resolution.

(b) The board shall have the power to decide appeals of decisions by the department regarding significant disputes over the level of services and/or funding provided to charter schools as mandated by state or federal law. An appeal shall be filed with the board within thirty calendar days of the origination of the dispute. A charter school, group of charter schools, or the department may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. The board may

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adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process.

For purposes of this section, "significant dispute" means a dispute where, if decided against a charter school, such decision would negatively impact delivery of contract terms or a decision to reauthorize or revoke a charter.

§ -16 Performance framework. (a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the authorizer's evaluations of each public charter school. The performance framework, as established by the authorizer, shall include indicators, measures, and metrics for, at a minimum:

- (1) Student academic proficiency;
- (2) Student academic growth;
- (3) Achievement gaps in proficiency and growth between major student subgroups;
- (4) Attendance;
- (5) Recurrent enrollment from year to year;
- (6) Postsecondary readiness, as applicable for high schools;
- (7) Financial performance and sustainability;
- (8) Performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract; and
- (9) Organizational viability.

(b) Annual performance targets shall be set by each public charter school in conjunction with its authorizer, and shall be designed to help each school meet applicable federal, state, and authorizer expectations.

(c) The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance; provided that the authorizer approves the quality and rigor of such school-proposed indicators, and the indicators are consistent with the purposes of this chapter and the charter contract.

(d) The performance framework shall require the disaggregation of all student performance data by major student subgroups, including gender, race, poverty status, special education status, English as a second language status, and gifted and talented status.

(e) For each public charter school it oversees, the authorizer shall be responsible for collecting, analyzing, and reporting all data from assessments in accordance with the performance framework.

(f) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual charter schools, and each charter school shall be held independently accountable for its performance.

§ -17 Ongoing oversight and corrective actions. (a) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter and adhere to the terms of the charter contract.

(b) Each authorizer shall annually publish and provide, as part of its annual report to the board and the legislature, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and section -16. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the charter contract.

(c) In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the charter school to remedy the problem, unless the problem warrants revocation under section -18 in which case the revocation timeframes set forth in section -18 shall apply.

Comment [L7]: Clarifying language

(d) Notwithstanding section -18 to the contrary, every authorizer shall have the authority to take appropriate and reasonable corrective actions or exercise reasonable sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified and reasonable timeframe. The authorizer shall take into consideration how such corrective actions or sanctions could hinder the charter school from meeting their charter agreement.

Comment [L8]: These additions are consistent with the overall goal of striking a balance between innovation space and accountability.

(e) If there is an immediate concern for student or employee health or safety at a charter school, the authorizer, in consultation with the commission, may adopt an interim restructuring plan that may include the appointment of an interim governing board, a governing board chairperson, or a principal to temporarily assume operations of the school; provided that if possible without further jeopardizing the health or safety of students and employees, the charter

school's stakeholders and community are first given the opportunity to elect a new governing board which shall appoint a new interim principal.

The board shall have the authority to direct the authorizer to take appropriate action to immediately address serious health and safety issues that may exist at a charter school in order to ensure the health and safety of students and employees and mitigate significant liability to the State.

§ -18 Renewals, revocations, and nonrenewals. (a) A charter contract may be renewed for successive five-year terms of duration, although an authorizer may vary the terms based on performance, demonstrated capacities, and particular circumstances of each charter school. An authorizer may grant a renewal of a charter contract with specific conditions for necessary improvements to a charter school.

(b) No later than _____, the authorizer shall issue a charter school performance report and charter contract renewal application guidance to any charter school whose charter contract will expire the following year. The performance report shall summarize the charter school's performance record to date, based on the data required by this chapter and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school shall have _____ days to respond to the performance report and submit any corrections or clarifications for the report.

(c) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:

(1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;

(2) Describe improvements undertaken or planned for the school; and

(3) Detail the charter school's plans for the next charter term.

(d) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the charter contract and be consistent with this chapter.

(e) No later than _____, the governing board of a charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal guidance issued by the authorizer. The authorizer shall decide whether or not to renew the charter no later than _____ days after the filing of the renewal application.

(f) In making charter renewal decisions, every authorizer shall:

(1) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(2) Ensure that data used in making the renewal decisions are available to the charter school and the public; and

(3) Provide a public report summarizing the evidence and basis for each decision.

(g) A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:

(1) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;

~~(2) Failed to meet or make sufficient progress toward performance expectations set forth in the contract;~~

(3) Failed to meet generally accepted standards of fiscal management; or

(4) Substantially violated any material provision of law from which the charter school is not exempted.

(h) An authorizer shall develop revocation and non-renewal processes that:

(1) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and the reasons for such possible closure;

(2) Allow the charter holders a reasonable amount of time in which to prepare a response;

(3) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose;

(4) Allow charter holders access to representation by counsel and to call witnesses on their behalf;

(5) Permit the recording of proceedings described in paragraph (3); and

(6) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter holders.

(i) If an authorizer revokes or does not renew a charter, the authorizer shall clearly state in writing the reasons for the revocation or nonrenewal.

(j) Within days of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the board the action taken, and shall simultaneously provide a copy of the report to the charter school. The report shall set forth the action taken and reasons for the decision and assurances as to compliance with all the requirements set forth in this chapter.

Comment [L9]: This gives a second power to the Commission/Authorizer to operate outside of the contract terms. This should be removed as it is covered under the renewal section of the contract. Removal of this provision would give charter schools the opportunity to innovate, be flexible, make corrections and be held accountable for results. Removal of this provision also prevents malicious and capricious revocation actions. Also see previous note.

§ -19 **School closure and dissolution.** (a) Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(b) In the event of a public charter school closure for any reason, the assets of the school, excluding facilities, shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the state treasury to the credit of the general fund. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

(c) In the event of a public charter school closure for any reason, other public charter schools shall have the right of first refusal for the closed public charter school's facilities. If no other public charter school exercises the right of first refusal, the facilities shall revert back to the department and the State.

§ -20 **Charter transfers.** Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the board by a public charter school or its authorizer. The board shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students.

§ -21 **Annual board report.** On or before _____ of each year, the board shall issue to the governor, the legislature, and the public, an annual report on the State's public charter schools, drawing from the annual reports submitted by every authorizer as well as any additional relevant data compiled by the board, for the school year ending in the preceding calendar year. The annual report shall include:

(1) A comparison of the performance of public charter school students with the performance of academically, ethnically, ~~geographically~~, and economically comparable groups of students in public schools governed by chapter 302A, as determined by the board;

Comment [L10]: Many of the charter schools tend to attract students from outside their geographic location.

(2) A comparison of the performance of public charter school students with the performance of academically, ethnically, and economically comparable groups of students in public schools governed by chapter 302A, as determined by the charter school;

Comment [L11]: Many of the charter schools tend to attract students from outside their geographic location.

(3) The board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of

funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools;

~~(43) A line-item breakdown of all federal funds awarded to and received by the department and distributed to authorizers and~~

~~(5) A line-item breakdown of all federal funds distributed to authorizers~~

Comment [L12]: Clarifying language to allow for both reports to be made available.

(64) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools.

§ -22 Board as final arbitrator. (a) The board shall serve as the final arbitrator of those appeals listed in section -15.

(b) A party shall not be entitled to a hearing before the board under this section until it has exhausted all available administrative remedies.

(c) The board shall adopt applicable rules and procedures pursuant to chapter 91 for implementing this section.

§ -23 Minimum educational data reporting standards. The board shall establish educational reporting standards that shall include minimum standards for reporting fiscal, personnel, and student data, by means of electronic transfer of data files from charter schools to the department. The minimum standards established by the board shall include but not be limited to data required for the department, as the state education agency, to meet all applicable federal reporting requirements.

§ -24 Occupancy and use of facilities of public schools. (a) When the department considers whether to close any particular public school, the department shall submit a notice of possible availability of a public school or notice of vacancy of a public school to the board pursuant to section 302A-1151.5(b); provided that the department has not elected to use the public school to support education programs.

(b) If a charter school exclusively or jointly occupies or uses buildings or facilities of a public school immediately prior to converting to a charter school, upon conversion that charter school shall be given continued exclusive or joint use of the buildings or facilities; provided that:

(1) The State may reclaim some or all of the buildings or facilities if it demonstrates a tangible and imperative need for such reclamation; and

(2) The State and the conversion charter school voluntarily enter into an agreement detailing the portion of those buildings or facilities that shall be reclaimed by the State and a timetable for the reclamation. If a timetable cannot be reached, the State may petition the board for the reclamation, and the board may grant the petition only to the extent that it is not possible for the conversion charter school and the State to jointly occupy or use the buildings or facilities.

(c) Upon receipt of a notice pursuant to section 302A-1151.5(b), the board shall solicit applications from charter schools interested in using and occupying all or portions of the facilities of the public school by:

(1) Promptly notifying all charter schools that the public school is being considered for closure; and

(2) Affording each charter school an opportunity to submit an application with a written explanation and justification of why the charter school should be considered for possible occupancy and use of the facilities of the public school.

(d) After fully considering each charter school's application and based on the applications received and on other considerations, the board shall:

(1) Provide a written response to each charter school's application after each application has been fully considered;

(2) Compile a prioritized list of charter schools; and

(3) Make a final determination of which charter school, if any, shall be authorized to use and occupy the public school facilities.

(e) Upon the selection of a charter school to use a vacant school facility or portion of a school facility, the department and the charter school's authorizer shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section; provided that any agreement between the authorizer and the department shall stipulate that a charter school that uses and occupies a public school facility or portion of a public school facility shall be responsible for the full or pro rata share of the repair and maintenance costs for that facility or portion of the facility, as the case may be.

(f) The board shall adopt policies and procedures necessary to carry out the purposes of this section, including but not limited to:

(1) Procedures for charter schools to apply in writing to use vacant school facilities;

(2) Criteria for the board to use in determining which charter schools to include on the prioritized list to be submitted to the department; and

(3) Procedures for the board to notify charter school applicants that are granted or denied the use of vacant school facilities.

(g) For purposes of this section, "public school" means any school that falls within the definition of public schools in section 302A-101, except for charter schools.

§ -25 Exemptions from state laws. (a) 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;

(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.

(b) Charter schools, the commission, and authorizers shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Charter schools, the commission, and authorizers are encouraged to use the provisions of chapter 103D where possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school, commission, or authorizer to any other provision of chapter 103D. Charter schools, the commission, and authorizers shall account for funds expended for the procurement of goods and services, and this accounting shall be available to the public.

(c) Charter schools and their employees, the commission and its employees, and authorizers and their employees shall be exempt from chapter 84; provided that they shall develop internal policies and procedures for gifts, confidential information, fair treatment, conflicts of interest, and contracts consistent with the goals of the state ethics code, pursuant to chapter 84. Charter schools, governing boards, authorizers, and the commission are encouraged to use the provisions of chapter 84 where possible; provided that the use of one or more provisions of chapter 84 shall not constitute a waiver of the exemption from chapter 84 and shall not subject the charter school or governing board to any other provision of chapter 84.

(d) Any charter school, prior to the beginning of the school year, may enter into an annual contract with any department for centralized services to be provided by that department.

(e) Notwithstanding any law to the contrary, as public schools and entities of the State, a charter school, including its governing board, the commission, and any authorizer may not bring suit against any other entity or agency of the State.

§ -26 Civil service status; employee rights. (a) Civil service employees of department schools shall retain their civil service status upon the conversion of their school to a conversion

charter school. Positions in a conversion charter school that would be civil service in a department public school shall be civil service positions and subject to chapter 76. An employee with civil service status at a conversion charter school who transfers, is promoted, or takes a voluntary demotion to another civil service position shall be entitled to all of the rights, privileges, and benefits of continuous, uninterrupted civil service. Civil service employees of a conversion charter school shall have civil service status in the department's civil service system and shall be entitled to all rights, privileges, and benefits as other civil service employees employed by the department. Exempt employees as provided in section 76-16(b)(11)(B) of a conversion charter school shall have support services personnel status in the department's support services personnel system and shall be entitled to all rights, privileges, and benefits as other exempt employees employed by the department in their support services personnel system.

(b) The State shall afford administrative, support, and instructional employees in charter schools full participation in the State's systems for retirement, workers' compensation, unemployment insurance, temporary disability insurance, and health benefits in accordance with the qualification requirements for each.

(c) The department, to the extent possible, shall provide its position listings to the commission, authorizers, and any interested governing board of any charter school.

(d) The department, in conjunction with the commission and authorizers, shall facilitate and encourage the movement of instructional personnel between the department and charter schools; provided that:

(1) Comparable and verifiable professional development and employee evaluation standards and practices, as determined and certified by the commission or authorizer, are in place in charter schools for instructional staff;

(2) Licensed charter school teachers, as determined by the Hawaii teacher standards board, who are not yet tenured in the department and are entering or returning to the department after full-time employment of no less than one full school year at a charter school, shall be subject to no more than one year of probationary status; and

(3) Tenured department licensed teachers, as determined by the department, who transfer to charter schools shall not be required to serve a probationary period.

(e) The department shall establish a process that permits employees of department public schools that become conversion charter schools pursuant to section -14 to transfer to a department public school governed by chapter 302A.

§ -27 Administration of workers' compensation. The department of human resources development shall administer workers' compensation claims for employees of charter schools, who shall be covered by the same self-insured workers' compensation system as other public employees. The department of human resources development shall process, investigate, and make payments on claims; provided that:

(1) Charter schools shall compile the preliminary claim form and forward it to the department of human resources development; and

(2) The department of human resources development shall receive no more than 0.07 per cent of the EDN 600 appropriation to process these workers' compensation claims.

§ -28 **Funding and finance.** (a) Beginning with fiscal year 2012-2013, and each fiscal year thereafter, the non-facility general fund per-pupil funding request for charter school students shall be based upon reasonable projected enrollment figures for all charter schools and shall be the same as the general fund per-pupil amount to the department at the following times:

~~(1) the in the most recently submitted approved executive budget recommendation for the department to the legislature;~~

(2) the most recently approved executive budget recommendation by the House of Representatives;

(3) the mostly recently approved executive budget recommendation by the Senate; and

(4) the most recently approved executive budget recommendation by the House of Representatives and the Senate and submitted to the governor for signature.

At each the points noted above the budget worksheets shall include the calculations used to reach the respected budgeted amounts.

~~and shall be based upon reasonable projected enrollment figures for all charter schools.~~ (b) The general fund per-pupil request for each regular education and special education student shall:

(1) Include all general fund regular education cost categories, including comprehensive school support services, but excluding special education services, adult education, and the after-school plus program; provided that these services are provided and funded by the department; and

(2) Exclude fringe benefit costs and debt service.

(cb) 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. 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 facility and other costs.

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

Comment [L13]: This language has been interpreted differently depending on the entity and the timeline in which the formula calculations are done. Per previous discussions, this language combined with the deletion of CSAO preparing the per pupil non-facilities general funding budget will hopefully clear up the misinterpretations.

(de) Notwithstanding any law to the contrary, to ensure non-facility per-pupil general fund amounts allocated for the department and charter school students are equal on an annualized fiscal year basis, each year the director of finance shall:

(1) Determine the sum of general fund appropriations made for department and charter school student non-facility costs described in subsections (a) and (b);

(2) Determine the sum of department and charter school student enrollment based on reviewed and verified student enrollment counts as of October 15;

(3) Determine a per-pupil amount by dividing the sum of general fund appropriations determined under paragraph (1) by the sum of student enrollment determined under paragraph (2);

(4) Transfer a general fund amount between the department and charter schools that will provide each with a per-pupil allocation equal to the amount determined on an annualized fiscal year basis under paragraph (3); and

(5) Annually account for all calculations and transfers made pursuant to this subsection in a report to the legislature, governor, department, and charter schools.

This subsection shall not limit the ability of the ~~director of finance~~ governor to modify or amend any allotment pursuant to chapter 37.

(ed) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. The department shall provide the commission and authorizers 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 authorizers for distribution to the charter schools they authorize 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 governing boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the governing boards.

(fe) Authorizers shall calculate a general fund per-pupil amount based upon the amount of general funds appropriated by the legislature and released by the governor and the projected enrollment amount used to calculate the general funds appropriated pursuant to subsection (a).

Authorizers shall submit a report to the legislature no later than twenty days prior to the convening of each regular session that contains each charter school's current school year projection that is used to submit the budget request, the updated May 15 enrollment projection, the actual October 15 enrollment count, the authorizer's reviewed and verified enrollment count, and the November 15 enrollment count.

(gf) To enable charter schools to access state funding prior to the start of each school year, foster their fiscal planning, enhance their accountability, and avoid over-allocating general funds to charter schools based on self-reported enrollment projections, authorizers shall:

(1) Provide sixty 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 its authorizer a projected student enrollment no later than May 15 of each year;

(2) Provide an additional thirty per cent of a charter school's per-pupil allocation no later than December 1 of each year, based on the October 15 student enrollment, as reviewed and verified by the authorizer, only to schools in compliance with all financial reporting requirements; and

(3) ~~Retain no more than The balance of the remaining ten per cent of a charter school's per-pupil allocation shall be provided no later than January 30 of each year provided that as a contingency balance to ensure fiscal accountability and compliance, the authorizer may retain this amount until no later than June 30 of each year;~~

provided that the board 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, the board's administrative procedures, and board-approved accountability requirements.

(hg) 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.

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

§ -29 Weighted student formula. (a) Notwithstanding section -28, charter schools shall elect whether to receive allocations calculated according to the department's procedures and

Comment [L14]: These changes reflect the intention of getting money to the schools in a timely manner should they be compliant and fiscally accountable.

methodology used to calculate the weighted student formula allocation adopted pursuant to section 302A-1303.6; provided that:

(1) All charter schools, as a group, with each governing board being accorded one vote, shall elect, by greater than two-thirds agreement among the governing boards, whether to receive allocations calculated through the department's procedures and methodology for the weighted student formula; provided that a nonprofit organization that governs more than one conversion charter school may cast one vote representing each school it governs;

(2) Any election by charter schools to receive allocations, or not to receive allocations, calculated through the procedures and methodology for the department's weighted student formula shall be made by September 1 of each even-numbered year, and the election shall apply to the fiscal biennium beginning July 1 of the following year.

(b) The charter schools, through their authorizer, may propose to the board an alternative weighted student formula, approved by more than two-thirds of the governing boards, with each governing board being accorded one vote, to be administered by the commission and to apply to the per-pupil allocation for charter schools.

§ -30 Responsibilities of the department; special education services. (a) The department shall collaborate with the commission to develop a system of technical assistance related to compliance with federal and state laws and access to federal and state funds. The department and the commission shall collaborate to develop a list of central services that the department may offer for purchase by a charter school at an annual cost to be negotiated between an individual charter school and the department. The department shall enter into a contract with a charter school to provide these services, which shall be renegotiated on an annual basis.

(b) The department shall be responsible for the provision of a free appropriate public education. Any charter school that enrolls special education students or identifies one of its students as eligible for special education shall be responsible for providing the educational and related services required by a student's individualized education program. The programs and services for the student shall be determined collaboratively by the student's individualized education program team, which includes the student's parents or legal guardians.

If the charter school is unable to provide all of the required services, then the department shall provide the student with services as determined by the student's individualized educational program team. The department shall collaborate with the commission to develop guidelines related to the provision of special education services and resources to each charter school. The department shall review all of the current individualized education programs of special education students enrolled in a charter school and may offer staff, funding, or both, to the charter school based upon a per-pupil weighted formula implemented by the department and used to allocate resources for special education students in the public schools.

§ -31 Sports. The department shall provide students at charter schools with the same opportunity to participate in athletics as is provided to students at other public schools. If a student at a charter school wishes to participate in a sport for which there is no program at the

charter school, the department shall allow that student to participate in a comparable program of any public school in the complex in which the charter school is located."

SECTION 3. (a) There is established a charter school administrative office, hereinafter referred to as the office, which shall be attached to the department of education for administrative purposes only. The office shall be administered by an executive director, who shall be appointed without regard to chapters 76 and 89, Hawaii Revised Statutes, by the state public charter school commission based upon the recommendations of an organization of charter schools operating within the State or from a list of nominees submitted by the charter schools. The state public charter school commission shall hire the executive director, who may be contracted for a term of up to one year; shall offer the executive director a written contract; and may terminate the executive director's contract only for cause; provided that the executive director's contract shall automatically terminate upon the repeal of this section. The executive director, with the approval of the state public charter school commission, may hire necessary staff without regard to chapters 76 and 89, Hawaii Revised Statutes, to assist in the administration of the office.

(b) The executive director, under the direction of the state public charter school commission, and in consultation with the charter schools, shall be responsible for the internal organization, operation, and management of the charter school system, including:

(1) ~~Preparing and executing the budget and the capital improvement projects request for the charter schools, including submission of the all means of finance budget and preparing the~~ request that reflects all anticipated expenditures to the state public charter school commission, the board of education, the governor, and the legislature; provided that, in preparing the budget request with regard to needs-based facilities funding, the executive director shall ensure that, as a budget item separate from other operating costs, the request is accompanied by a detailed explanation of the formula used and a funding request breakdown by school;

(2) Allocating annual appropriations to the charter schools and distribution of federal funds to charter schools;

(3) Complying with applicable state laws related to the administration of the charter schools;

(4) Preparing contracts between the charter schools and the department of education for centralized services to be provided by the department of education;

(5) Preparing contracts between the charter schools and other state agencies for financial or personnel services to be provided by the agencies to the charter schools;

(6) Providing independent analyses and recommendations on charter school issues;

(7) Representing charter schools and the charter school system in communications with the board of education, the governor, and the legislature;

(8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;

(9) Providing guidance and assistance to charter applicants and charter schools to enhance the completeness and accuracy of information for state public charter school commission review;

(10) Assisting charter applicants and charter schools in coordinating their interactions with the state public charter school commission, as needed;

(11) Assisting the state public charter school commission to coordinate with charter schools in state public charter school commission investigations and evaluations of charter schools;

(12) Serving as the conduit to disseminate communications from the state public charter school commission, the board of education, and the department of education to all charter schools;

(13) Determining charter school system needs and communicating those needs to the state public charter school commission, the board of education, and the department of education;

(14) Establishing a dispute resolution and mediation process; ~~and~~

(15) Upon request by one or more charter schools, assisting in the negotiation of a collective bargaining agreement with the exclusive representative of its employees; and

(16) Executing the budget act as authorized by the governor.

(c) The executive director shall be evaluated annually by the state public charter school commission. The annual evaluation shall be conducted sufficiently in advance of the end of a term to provide the executive director the opportunity to respond to concerns and improve performance.

(d) The office shall withhold funds for its operational expenses, including the salaries of the executive director and staff, from the annual charter school general fund appropriation. The total amount of operational expenses withheld:

(1) Shall not exceed two per cent of the annual charter school general fund allocation, which shall not include any funds carried over from previous years;

(2) Shall not include the amount of funds withheld under subsections (g) and (h); and

(3) Shall be determined annually by the state public charter school commission.

The salaries of the executive director and staff shall be set by the state public charter school commission based upon the recommendations of charter schools within the State and in accordance with the requirements of this subsection.

(e) The office shall report annually to the state public charter school commission individual and aggregate expenditures of charter schools, clearly distinguishing between expenditures for operational purposes and for instructional purposes. The office shall adopt rules to develop a standardized method for charter schools to report the expenditures and to determine expenditures that constitute expenditures for operational expenses and expenditures for instructional purposes. If any charter school fails to meet the reporting requirements under this subsection, the office may retain a portion of that charter school's per-pupil allocation pursuant to section 28.

(f) The office shall include in its annual budget request additional funds to cover the estimated costs of:

(1) Vacation and sick leave accrued by employees transferring to a charter school from another state agency or department;

(2) Substitute teachers needed when a teacher is out on vacation or sick leave;

(3) Adjustments to enrollments; and

(4) Arbitration in the grievance process.

(g) The office shall withhold funds for charter school enrollments that are inconsistent with approved charter contracts entered into pursuant to chapter , Hawaii Revised Statutes.

(h) The office shall withhold funds to repay overpayments or over-allocations received by charter schools when not repaid in a timely manner in accordance with rules adopted by the board of education.

(i) The office may carry over funds from previous year allocations. Funds distributed to charter schools shall be considered expended.

PART III

SECTION 4. Section 26-35.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) For purposes of this section, "member" means any person who is appointed, in accordance with the law, to serve on a temporary or permanent state board, including members of the board of education, the ~~[local school]~~ governing board of any charter school established under chapter ~~[302B]~~, council, authority, committee, or commission, established by law or elected to the board of trustees of the employees' retirement system under section 88-24, or the corporation board of the Hawaii health systems corporation under section 323F-3 and its regional system boards under section 323F-3.5; provided that "member" shall not include any person elected to serve on a board or commission in accordance with chapter 11."

SECTION 5. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The following individuals shall not be included in any appropriate bargaining unit or be entitled to coverage under this chapter:

- (1) Elected or appointed official;
- (2) Member of any board or commission; provided that nothing in this paragraph shall prohibit a member of a collective bargaining unit from serving on a ~~[local school]~~ governing board of a charter school, on the state public charter school commission, or ~~[the]~~ as a charter school ~~[review panel]~~ authorizer established under chapter ~~[302B:]~~ ___;
- (3) Top-level managerial and administrative personnel, including the department head, deputy or assistant to a department head, administrative officer, director, or chief of a state or county agency or major division, and legal counsel;
- (4) Secretary to top-level managerial and administrative personnel under paragraph (3);
- (5) Individual concerned with confidential matters affecting employee-employer relations;
- (6) Part-time employee working less than twenty hours per week, except part-time employees included in unit (5);
- (7) Temporary employee of three months' duration or less;
- (8) Employee of the executive office of the governor or a household employee at Washington Place;
- (9) Employee of the executive office of the lieutenant governor;
- (10) Employee of the executive office of the mayor;
- (11) Staff of the legislative branch of the State;
- (12) Staff of the legislative branches of the counties, except employees of the clerks' offices of the counties;
- (13) Any commissioned and enlisted personnel of the Hawaii national guard;
- (14) Inmate, kokua, patient, ward, or student of a state institution;
- (15) Student help;
- (16) Staff of the Hawaii labor relations board;

(17) Employees of the Hawaii national guard youth challenge academy; or

(18) Employees of the office of elections."

SECTION 6. Section 89-10.55, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) For the purpose of negotiating a memorandum of agreement or a supplemental agreement that only applies to employees of a charter school, the employer shall mean the [local school] governing board, subject to the conditions and requirements contained in the applicable sections of this chapter governing any memorandum of agreement or supplemental agreement.

(d) Negotiations over matters covered by this section shall be conducted between the employer and exclusive representative pursuant to this chapter. Cost items that are appropriated for and approved by the legislature and contained in a collective bargaining agreement, memorandum of agreement, or supplemental agreement covering, wholly or partially, employees in charter schools shall be allocated by the department of budget and finance to ~~the~~ a charter school ~~[administrative office]~~ authorizer for distribution to ~~the charter [schools.]~~ schools it authorizes. However, if the charter school ~~[administrative office]~~ authorizer deems it appropriate, the cost items may be funded from a charter school's existing allocation or other sources of revenue received by a charter school."

SECTION 7. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Authorizer" has the same meaning as in section -1.

"Commission" has the same meaning as in section -1."

2. By deleting the definitions of "charter school administrative office" or "office" and "charter school review panel" or "panel".

~~["Charter school administrative office" or "office" means the office established in section 302B-8 responsible for the internal organization, operation, and management of the charter school system.~~

~~"Charter school review panel" or "panel" means the panel established in section 302B-3."~~

SECTION 8. Section 302A-1101, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The board shall appoint the state public charter school ~~[review panel,]~~ commission which shall serve as the statewide charter authorizer for charter schools, with the power and duty to issue charters, oversee and monitor charter schools, hold charter schools accountable for their performance, and revoke charters."

SECTION 9. Section 302A-1151, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1151 **Sale of school lands unnecessary for school purposes.** The chairperson of the board of land and natural resources is hereby requested, upon the recommendation and approval of the superintendent, to sell any state lands, including the buildings thereon, once used but no longer necessary for school purposes; provided that no school facility or portion of a school facility shall be sold before that facility or portion of the facility is made available for use by the department or charter schools, pursuant to sections 302A-1151.5 and ~~[302B-3-6]~~ -24."

SECTION 10. Section 302A-1151.5, Hawaii Revised Statutes, is amended by amending subsections (b) to (e) to read as follows:

"(b) The department shall submit a notice of possible availability of a public school to the ~~[charter school review panel]~~ board as early as possible; provided that if a vacancy is established, a notice of vacancy shall be submitted to the ~~[charter school review panel]~~ board no later than thirty days after the establishment of the vacancy.

(c) Pursuant to section ~~[302B-3-6]~~ -24 and upon receipt of a notice pursuant to subsection (b), the ~~[charter school review panel]~~ board shall solicit applications from charter schools interested in using and occupying all or portions of the facilities of the public school and submit a prioritized list of charter schools to the department for final determination of which charter school, if any, shall be authorized to use and occupy the public school facilities.

(d) Upon the selection of a charter school to use a vacant school facility or portion of a school facility, the department and the ~~[charter school review panel]~~ selected charter school's governing board shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section.

(e) After receipt by the ~~[charter school review panel]~~ board of a notice pursuant to subsection (b), if the ~~[charter school review panel]~~ board does not ~~[provide]~~ compile a prioritized list of charter schools because no charter school has requested to use the facilities of the public school, or if the ~~[department receives the prioritized list but]~~ board determines that no charter school on the list is an appropriate candidate to occupy and use the facilities, the department shall give reasonable consideration to making all or portions of the facilities of the public school, if closed, available for occupancy and use for other educational purposes."

SECTION 11. Section 302A-1303.6, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1303.6 **Weighted student formula.** Based upon recommendations from the committee on weights, the board of education, not less than once every odd-numbered year, shall adopt a weighted student formula for the allocation of moneys to public schools that takes into account the educational needs of each student. The department, upon the receipt of appropriated moneys, shall use the weighted student formula to allocate funds to public schools. Principals shall expend moneys provided to the principals' schools. This section shall only apply to charter schools for fiscal years in which the charter schools elect pursuant to section ~~[302B-13]~~ -29 to receive allocations according to the weighted student formula."

SECTION 12. Section 302A-1403, Hawaii Revised Statutes, is amended to read as follows:

"**§302A-1403 Authority to secure federal funds.** The department, the state public charter school ~~[administrative office,] commission, a charter school authorizer,~~ director of finance, and governor may take such steps and perform such acts as may be necessary or proper to secure any such federal funds for the purposes specified in sections 302A-1401 and 302A-1402."

SECTION 13. Section 302A-1404, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department and the state public charter school ~~[administrative office,] commission or an authorizer,~~ as appropriate, may retain and expend federal indirect overhead reimbursements for discretionary grants in excess of the negotiated rate for such reimbursements as determined by the director of finance and the superintendent or the director of finance and the ~~[executive director of the]~~ state public charter school ~~[administrative office,] commission or an authorizer,~~ as appropriate."

SECTION 14. Section 302A-1505, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Prior to informing the department about the school's repair and maintenance needs, the school's principal shall consider the recommendations made by the school community council or the ~~[local school]~~ governing board, if the school is a charter school."

SECTION 15. Chapter 302B, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 16. Notwithstanding any law to the contrary, the members of the charter school review panel serving on the day of the effective date of this Act shall serve on the state public charter school commission until the appointment of no fewer than five members to the state public charter school commission pursuant to section 2 this Act, at which time all members of the charter school review panel shall be discharged from service and the members of the state public charter school commission shall begin their service; provided that any vacancy in the charter school review panel occurring between the effective date of this Act and the discharge from office of all charter school review panel members shall remain vacant until appointed to the state public charter school commission by the board of education pursuant to this Act.

SECTION 17. All rights, powers, functions, and duties of the charter school administrative office as established pursuant to section 302B-8, Hawaii Revised Statutes, are transferred to the charter school administrative office as established pursuant to section 3 of this Act.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

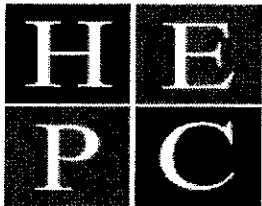
If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 18. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the charter school administrative office as established pursuant to section 302B-8, Hawaii Revised Statutes, relating to the functions transferred to the charter school administrative office as established pursuant to section 3 of this Act shall be transferred with the functions to which they relate.

SECTION 19. As of the effective date of this Act, all moneys in the charter schools account established pursuant to section 302B-12(i), Hawaii Revised Statutes, shall be transferred to the general fund of the State of Hawaii.

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 21. This Act shall take effect upon its approval; provided that section 3 of this Act shall be repealed on July 1, 2013.



HAWAI'I EDUCATIONAL POLICY CENTER

Informing the Education Community

Written Testimony
presented before the
House Committee on Finance
March 29, 2012, 5:30 pm, Room 308
by
Hawaii Educational Policy Center

SB 2115 SD2 HD1 RELATING TO CHARTER SCHOOLS

Chairs Oshiro, Members of the Committees. Thank you for the opportunity to provide this testimony.

The Hawaii Educational Policy Center supports much of this bill. It is much improved from its first draft, especially because it restores the charter school office as a key element of support for charter schools. We note, however, that the interface between the CSAO and the Commission has not been defined or refined, as there are a number of overlapping powers and duties between the two.

Suggested Amendments to the Bill

1. **The Executive Director.** HEPC is unaware of the rationale for reducing the term of the executive director from four years down to one year. Clearly, anyone appointed for such a short period of time would have little ability to establish authority or credibility. This short year-to-year contract could only be justified if the intent were to substantially reduce the administrative support for charter schools in general.
 - HEPC opposes this amendment and proposes that Finance restore the four-year term.
 - HEPC also suggests that in order to remove any potential conflicts between the mission of the Commission (accountability) and the mission of the Office (support) the Executive Director be appointed by the State Board of Education.
2. **Transfer of funds to charters.** HEPC opposes removing the November 15 deadline for the transfer of funds to charters. The only justification for this amendment could be to effectively close down the charter schools by preventing the full allocations. Charters must make budgets and hire staff based on full funding in a timely manner.
 - HEPC suggests restoring the November 15 and 30 deadlines for B&F.
3. **Administrative Rules.** The courts have affirmed on numerous occasions that negative sanctions or revocation of a charter cannot be done without the promulgation of administrative rules. HEPC can find some references to rule making (**Section 4, Chartering authority application for**

eligible entities.) However, the application of sanctions by the Commission appears not yet to authorize rules -- particularly under **Section 17 – Ongoing oversight and corrective actions; and Section 18 Renewals, revocations and nonrenewals.** The courts are very clear that these kinds of actions will require administrative rules to be effective. HEPC notes that under section 4 “The board shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to this section.” This kind of language needs to be applied to other sections of the bill.

- HEPC suggests that perhaps at the end of the bill a new section be added requiring the State Board of Education adopt rules for specifically listed sections that can impose negative impacts on the schools and students.

HEPC also wishes to point out that much of the language of authorizing in the bill is at the level of detail (suggested due dates, etc.) that is usually done through rules or administrative policies. It is often best left to administrative actions to establish or adjust such details rather than presume that broad legislative policy contexts can anticipate all the issues involved. The level of detail in some sections of the bill could become problematical, requiring the freezing of actions until the law can be amended.

4. **Powers and Duties of the Commission.** HEPC is concerned that the Commission is given too great a burden in terms of its time, talent and resources. The role of a full-time, proactive authorizer has yet to be implemented even under the current structure. Testimony before this committee indicated that at most the current Panel would be able to re-authorize only six charters per year. This is at the same time that there are over 17 new charter school applications. As noted above, the restoration of the charter school office will require culling out overlapping functions now embedded in the Commission section of the bill. HEPC respectfully suggests that the Commission become more focused on authorization, re-authorization, and revocation than attempting to “cover” many administrative functions more properly tasked to the office.
5. **Investigations and Mediation.** One potentially “missing” element of the new structure is an independent agent for investigating problems of noncompliance or conflicts at charter schools. HEPC notes that the Commission is to conduct its own investigations. Many attorneys advise administrators that it is wise to appoint or delegate investigations of problems and possible illegal activities to independent investigators who report back their results. It is not uncommon for a commission or agency to “expect” their own investigators to reach a pre-determined conclusion, or one that the agency is in agreement with. If investigations of noncompliance or improper behavior are to be truly objective, it might be better to assign these to another entity. HEPC respectfully suggests that the Committee explore adding a Charter School Ombudsman/Mediator to the State Ombudsman’s Office. This would be a neutral agency that would avoid real or imagined conflicts of interests by either the Commission or the Office. A neutral investigation that reports back to the Commission might well find more cooperation by those under scrutiny. This is essentially the role that an Ombudsman can provide. By also considering the idea of mediation it may be possible to avoid more formal and costly processes or remedies.

6. **Restore the 2% funding.** HEPC continues to be concerned about the adequacy of funding for both the office and the Commission. While some schools have not been happy with the automatic 2% of funding that has gone to the CSAO, the fact is that larger schools have subsidized smaller ones through this mechanism – ensuring that all charters receive a similar level of administrative support. Because this bill envisions a system in which an office would no longer be charged with accountability tasks (which would be done by the Commission) it may not need the full 2%. One possible option for consideration could be to allocate 1% to the commission and 1% to the office. This way, neither would be caught in the dilemma of hiring freezes or the need to spend a lot of time each Legislative Session seeking personnel funding. It should be noted that the non-instructional support for charters is far less than that of the DOE which, counting staff at the State, District and school level, numbers well over 10,000. Charters have about ten non-instructional staff to support all charters at the state level and 300 at the school level. With the recognition for our DOE schools that non-instructional administrative support is essential to free up teachers to do their work, it is reasonable to conclude that the State can afford to adequately fund both a CSAO and a Commission.

Thank you for the opportunity to provide testimony.



LEAGUE OF
WOMEN VOTERS

League of Women Voters of Hawaii

49 South Hotel Street, Room 314 | Honolulu, HI 96813

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**House Committee on Finance
Chair Rep. Marcus Oshiro, Vice Chair Rep. Marilyn Lee**

**Thursday 3/29/12 at 5:30 PM in Room 308
SB 2115, SD2, HD1— RELATING TO CHARTER SCHOOLS**

TESTIMONY

JoAnn Maruoka, Legislative Committee Member, League of Women Voters of Hawaii

Chair Oshiro, Vice Chair Lee, and Committee Members:

The League of Women Voters of Hawaii is very concerned about SB 2115, SD2, HD1, specifically §-25 Exemptions from state laws, subpart c) exempting Charter schools and their employees, the commission and its employees, and authorizers and their employees from the State Ethics Code, HRS chapter 84. Instead, the bill requires those entities to develop internal ethics policies and procedures.

The State Ethics Code is intended to help preserve the public's confidence in state government. Excluding public charter school and public charter school commission employees appears to be inconsistent with and contrary to that statutory purpose.

The bill gives public charter school employees and public charter school commission employees all of the benefits of being state employees, without the corresponding accountability to the public as all other state employees have. They are entitled to participate in the state retirement program, to receive state benefits, and to be members of the HSTA and HGEA; their salaries are funded through the state general fund. Yet, they are not subject to the State Ethics Code. That means that public charter school and public charter school commission employees are not prohibited from accepting gifts, including lavish meals, extravagant trips and tickets to exclusive events, that are clearly intended to influence or reward their official action; they are not required to publicly report any gifts that they receive; they are not prohibited from using their position to give themselves or others unwarranted advantages; they are not prohibited from engaging in activities that may raise conflicts of interest issues --- all of which are addressed in the State Ethics Code.

Although the bill requires public charter schools and the public charter school commission to implement their own ethics policies, what happens if there are no policies adopted by the school --- no ethics restrictions? While the bill encourages them to use the State Ethics Code as a guide in crafting their ethics policies, there is no requirement to do so; and their understanding and interpretation of various provisions in the State Ethics Code may be incorrect or incomplete which will result in their respective policies being incorrect or incomplete. The State Ethics Code was vetted by the legislature after numerous public hearings; in contrast, under the bill, policies can be implemented in a closed process, without public participation or scrutiny.

It's also likely that the ethics policy adopted by a public charter school or the public charter school commission will confer the investigative/decision making authority on the local school board and the commission, respectively. Given that ethics is generally based upon perception, the reasonable perception is likely that fox is guarding the hen house. We strongly urge you to delete the exemption and simply require compliance with the existing State Ethics Code.

Thank you for the opportunity to submit testimony.



**House FIN Committee
Chair Marcus Oshiro, Vice Chair Marilyn Lee**

**Thursday 3/29/12 at 5:30PM in Room 308
SB 2115 SD2 HD1 – Charter Schools**

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

Chair Oshiro, Vice Chair Lee, and Committee Members:

Common Cause Hawaii offers the following comments on SB2115 SD2 HD1, regarding charter schools.

We are concerned about the exclusion of charter schools and their employees, commission and its employees, authorizers and their employees from the state's Ethics Code (HRS Chapter 84).

Charter school employees would be otherwise treated like state employees, receiving salaries paid by state funds, state benefits and retirement, and union membership. Just like other state employees, they should be subject to the Ethics Code and held to those same high standards of all state employees regarding conflicts of interest, gifts, fair treatment, etc.

While the bill calls for the charter schools to establish their own ethics policies, it is unclear how and when that would be accomplished, and what sort of administration/enforcement mechanisms would be set up.

In recent years, news reports have documented some of the ethics issues that have arisen in some charter schools. With that in mind, we ask legislators to act now to prevent other ethics problems from happening in the future and to help promote public confidence in the new charter school framework.

Mahalo for the opportunity to submit testimony.



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Testimony to the House Committees on Finance

Thursday, March 29, 2012

5:30 p.m.

Conference Room 308

**RE: Relating to Charter Schools – Senate Bill S.D. 2, H.D. 1, Senate Bill 2116
S.D. 2**

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Gary Kai and I am the Executive Director of the Hawaii Business Roundtable. The Hawaii Business Roundtable supports SB 2115 S.D. 2, H.D. 1 which establishes a new chapter governing charter schools based on the recommendations of the Charter School Governance, Accountability, and Authority Task Force and SB 2116 S.D. 2 which requires the Board of Education to contract for an implementation and transition coordinator to assist with the implementation of the new governing chapter. We would like to commend the Task Force Co-chairs, Senator Jill Tokuda and Representative Della Au Belatti and their members for their efforts to improve the quality of Charter Schools in Hawaii. Their efforts will raise the quality of education for thousands of our children who attend and will attend charter schools.

The new chapter addresses many issues that we strongly support. We feel that performance based contracts with charter schools defining the responsibilities of the school and setting levels of student performance are very important. We also feel that this legislation helps to clarify the roles of all of the stakeholders in our charter school system which is essential in moving the system forward. While further refinements and discussions will take place, as can be expected with an issue so complex, this legislation is a very positive step forward for our charter schools.

The members of the Hawaii Business Roundtable are prepared to be a part of, and support the legislative vision for our charter schools and ultimately for our children.

Thank you very much for the opportunity to testify.

Gary K. Kai, Executive Director
Hawaii Business Roundtable

SB 2115
OPPOSE

To all concerned:

I am the mother of three children who all attend charter schools. We actually tried regular DOE schools and had nothing but trials and hardships. My children thrive in an alternative, nurturing, and patient school setting; charter schools fulfill these needs. If the state needs more money for schools, which it truly does, it needs to be taken from the massive defense spending currently being done in this country, not other schools! Not other children! In addition, the Hawaiian language revitalization movement's foundation in keeping the language alive is within its charter schools. I know no one in our governing body would want to be responsible for jeopardizing this effort that has taken years to develop. I implore you all to do the right thing and reallocate money from another domain, not our children's future.

Sincerely,

Stephany Cecil

Hilo resident

Aloha Senators,

I am in opposition to SB2115. There are a number of reasons I oppose the bill (1) does not address the equal funding for charter schools (2) does not deal with the larger cuts that have been placed on charter schools (3) removes the CSAO leaving DOE or charter school in charge? (4) challenges the success of Local School Boards because it leaves little voice from the school and difficulty for schools in rural areas (5) does not give more decision making power to our School's Community Councils (6) does not propose Individual school accountability like annual audits would be another lesson learned from charter schools. (7) does not provide equitable funding for all children-charter and DOE (civil rights issue).

Mahalo for your time,

Jonathan Kissida

March 12, 2012

I am in opposition to SB2115 because it does not address the real problem in charter schools. **The real problem is equitable funding per pupil and facilities funding.** Our school has suffered a declining per pupil amount (34.4% reduction) over the past four years that it is not proportional to the cuts made in other sectors of government and in the DOE. (I work very hard teach my 4th/5th grade class, as hard as any teacher in the DOE. My students work as hard as any other students in the DOE as well, and are making progress. **Why are charter school students and employees being treated like secondhand citizens?** Every child in Hawaii deserves an equal education and equal funding. Why are my students (and other charter school students) being singled out? Why are charter schools being harassed and persecuted by our state government? We are doing the same job as DOE schools; in many cases we are doing a better job. So why are lawmakers so hard on charter schools? What is the real agenda here? Is it even legal to be cutting funding from charter school students only, to be financially segregating them from DOE students?(Something needs to be done to stop this incessant harassment of charter schools and the student of charter schools. It's time to treat

us equally and give our children what they deserve—the same fair and equal education and resources that the children in the DOE receive.

Mahalo for your attention,

Terry J Walker,

4th /5th grade teacher

Hawaii Academy of Arts and Sciences PCS

charter-school

Eli Scheetz
SB2115
Oppose

Charter schools are the only real public education in Hawaii. If we want competent, creative, and respectful adults in this world then we need to provide a better education for the children. If there is to be a change in charter school funding it needs to be an increase not another decrease. I know that money is tight but there is no other public school option for my kids and I can't afford private school. I propose that you squash this bill and write a new one that give more funding to charter schools and supports new startups to encourage more charter school options for the many students and parents looking for a decent education.

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ian York
Organization: Individual
E-mail: ian.i.york@gmail.com
Submitted on: 3/28/2012

As a parent of a charter school student, I am in opposition to SB2115.

This bill does not address the problems that face charter schools; in fact, it causes more problems. First it does not provide equitable funding for the charter schools. Currently charter school funding is not proportional to the cuts made in other DOE schools. This creates a second class status for charter school students and does not allow them the equal access to things that DOE students have. Second, the bill would change the way the charter schools are organized by removing the CSAO and redistributing voices from the school employees, students, parents, and community members. These two items would fundamentally alter the way charter schools are run. Parents, who are taxpayers, choose charter schools for a reason. It is the senate's responsibility to support charter schools instead of setting them up for failure.

Testimony SB2115

House Finance Committee

March 29, 2012 Room 308 5:30 pm

Oppose

Dear Chair Oshiro and committee,

I am in opposition to Senate Bill 2115. I am against the repeal of 302B in entirety and replacing it with this bill that will require adding in specifics (in later years) to cover the generalities expressed in most of the bill. I also feel that it does not address the real problem facing charter schools and that precisely is equitable, fair, adequate, or equal (you take your pick) per pupil funding and the total disregard for funding some kind of facility support.

Specifically, I don't believe that limiting the governing boards to 30% is a realistic percentage of employees to sit on a governing board. Our local school board is comprised of nine members and this would limit the number to two. Because we are a K-12 school, we have two teacher representatives who represent the elementary and secondary portions of the school. We currently have a staff board member and one to represent administration. All of the above provide to our other stakeholder members valuable information as to the curriculum, instruction, and assessment issues as well as administrative and staff views. Besides, in a rural location, it would be hard to find these volunteer people with school governance expertise.

Contracts that replace Detailed Implementation Plans are not a bad idea, but they have to be bi-lateral contracts whereby the government is also held to the terms of the contract. By taking away the school or governing boards' ability to sue the State, what recourse will the school have if the State does not fulfill their responsibilities under the contract?

General funds should include A+ funds because those services are not provided by the State. The language should revert to "all means of financing" except federal funds, which will have equal access by charters, and special education which will be provided by the department.

In the financing section of the bill, it says to "transfer a general fund amount between the department and charter schools". Does this mean that EDN 600 will not be funded and charter school money will be transferred from the department as in the years 2001-02 and 2002-03? This is probably not an acceptable method that the department will agree with.

Please change the third allocation to no later than February 15 of each year instead of June 30. By Feb 15 all reports will be submitted in compliance with the law. Self evaluations and annual financial audits will be turned in. If not, then allow for a case-by-case withholding of the third allocation.

Also in the funding section, do not eliminate debt service until language is re-inserted that deals with a facility fund calculation and insert that it shall be funded.

I am happy to see the Charter School Administrative Office re-inserted into the law. I could not imagine how those centralized services could be carried out by individual charters, especially for small schools that contribute an equal percentage, but low monetary amount for administrative services. I am disturbed by the fact that the Executive Director is placed on a one year contract. Either the intent is for the CSAO not to attract

qualified people for a short term contract or the real intent is to make this a sunset clause for the CSAO in general. If it is a sunset clause some thought should already be in place for how those critical agency functions are handled on behalf of charter schools. One example is how they presently can convert budget allocations or transfers in the FMS system and complete the eleven step process to convert that into a check or ACH transfer to the school.

In conclusion, I would like to again state that the changes that are warranted in the charter school law, could have been dealt with amendments to Chapter 302B. Also, if we don't validate the hard work by charter school operators, the students and parents they serve, and the community they offer a choice in education to, then all of these efforts may be wasted. Give the charters the funding they need so they can develop the tools to show the rest of the State what education and financial accountability is all about.

Thank you for this opportunity to testify.

Steve Hirakami

Director, Hawaii Academy of Arts & Science PCS

Sherrie L. Webb

Comments Only

SB2115

Our family benefits greatly from public charter school education. Cutting funding to charter schools at a disproportionate rate to other state funded programs can only hurt our family.

We have three children we were previously homeschooling (the oldest for 10 years). The charter school system in Hawaii bridges the gap between public schools and prohibitively expensive private schools. I would rather homeschool than send my children to a public school because I get to spend more time with them and have much more input into the education they receive. In fact, although they have an official teacher through the charter school, I am the one who spends the most time teaching them. Parents who can and want to be the primary educators of their children find the perfect home in charter schools. It is the only way I would willingly consent for my children to be in the public school system.

My children deserve to have the same per capita funding as the children in traditional public schools. The teachers, staff, and parents at the charter schools know what our children need and should be the ones to be in charge of the charter school program direction-not politicians, uninterested volunteers, or traditional form public school employees. Please let us continue to do an excellent job educating our children.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 27, 2012 9:19 PM
To: FINTestimony
Cc: rekhilo@hawaiiantel.net
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ray Kottke
Organization: Hawaii Academy of Arts and Science
E-mail: rekhilo@hawaiiantel.net
Submitted on: 3/27/2012

Comments:

Charter Schools must have equal funding - public education students should be treated equally! We are accredited and successful - our students get scholarships, go to universities and colleges, and become contributing members of society. So, why have our funds been reduced - where is the accountability? What is the rationale for treating one segment of public education as a lesser member? We need our funding increased and adjusted to the same level as other public schools, now!

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 11:40 AM
To: FINTestimony
Cc: terriyork2@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM
Attachments: SB2115York.rtf

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Terri York
Organization: Individual
E-mail: terriyork2@gmail.com
Submitted on: 3/28/2012

Comments:

I am opposed to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding. Over the years, we have seen a constant decline in the per pupil amount, which directly affects students in the programs. If our children do not get adequate funding, the rest of the bill is pointless.

In addition, SB2115 does not represent the needs of our community. It attempts to dissolve the Charter School Administrative Office, which is an important program for Charter Schools. Currently, the Local School Board, our local governance, is made up following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

This is a civil rights issue as it does not provide equitable funding for all children regardless of if they go to a charter school or a DOE school.

FINTestimony

m: mailinglist@capitol.hawaii.gov
it: Tuesday, March 27, 2012 9:35 PM
To: FINTestimony
Cc: joelndi.kelley@inbox.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Joel Kelley
Organization: Individual
E-mail: joelndi.kelley@inbox.com
Submitted on: 3/27/2012

Comments:

I urge the legislature to let this measure fail on the grounds that:

· I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

· We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

· Furthermore, it attempts to dissolve the CSAO (Charter Schools Administrative Office) and turn over administrative functions to the individual charter school or DOE.

· Charter schools have local governance called the Local School Board with the following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

· Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

· Individual school accountability like annual audits would be another lesson learned from charter schools.

· If our children do not get adequate funding, the rest of this bill is empty talk.

My daughter is in a charter school and deserves the same per pupil funding as DOE schools. PLEASE listen to the will of the people on this measure!

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Wednesday, March 28, 2012 11:24 AM
To: FINTestimony
Cc: jamesweatherfordphd@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: James Weatherford
Organization: Individual
E-mail: jamesweatherfordphd@gmail.com
Submitted on: 3/28/2012

Comments:

I oppose Senate Bill 2115 because it will smother out the breath of fresh air Charter Schools are bringing to public education.

Charter schools are an opportunity to provide desperately needed innovation in education. Charter schools need equitable funding and full support for facilities.

The Charter Schools in my community are struggling with inadequate funding, as they serve a population that is low-income and underserved with public services in general.

At the same time, the administrators, faculty, and staff are very motivated by their desire to make a positive difference in the lives of the children who are enrolled in the Charter schools here.

Please do not take away this opportunity for the positive difference Public Charter Schools make: fund these schools and put the authority to make decisions in the people who are working there every day.

Vote NO on Senate Bill 2115.

Thank you.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 12:33 PM
To: FINTestimony
Cc: danielthea@hotmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: daniel shapiro
Organization: Individual
E-mail: danielthea@hotmail.com
Submitted on: 3/28/2012

Comments:

This bill does not remedy the core problem facing charter schools--inequitable funding and lack of facilities funding. This bill just adds another layer of bureaucracy and limits charter school autonomy. Charter schools were created in Hawaii to give children and parents public choices in education that were largely free of the stifling bureaucracy that has hindered so many DOE schools. Charter school growth and positive HSA scores cannot be denied. Please fund these schools fairly and don't hinder their continued progress.

FINTestimony

m: mailinglist@capitol.hawaii.gov
at: Wednesday, March 28, 2012 7:27 AM
To: FINTestimony
Cc: jshon@hawaii.edu
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Jim Shon

Organization:

E-mail: jshon@hawaii.edu

Submitted on: 3/28/2012

Comments:

Testimony submitted on behalf of the Hawaii Educational Policy Center

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 1:21 PM
To: FINTestimony
Cc: rwa96720@yahoo.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: R. Winston Albright, Esquire
Organization: Individual
E-mail: rwa96720@yahoo.com
Submitted on: 3/28/2012

Comments:

I respectfully ask this committee to take another look at this bill. This bill will take funding and thus control of charter schools away from the very people that are keeping them alive. Already the administrators of Charters schools struggle with near zero funding for Facilities, and HALF the budget of a DOE per child yearly fund. The DOE is creating a Subclass of students in violation of Title VI. My child is not receiving the same funding as a DOE child. This is inherently unfair and a violation of my child's and thus my civil rights. How can we expect Charter Schools to do more with even less money? My son goes to Hawaii Academy of Arts and Science here on the Big Island and we are very happy with the curriculum, staff, and teachers. The impact of taking more money away from supporting our children already in Charter Schools has not been addressed by this SB2115. Everyone wants accountability, but HAAS is already accountable and succeeding with less funding than a DOE School. Please give Hawaii a chance and stop cutting funding to our Children. Thank you.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 27, 2012 4:15 PM
To: FINTestimony
Cc: jennaway@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jenna Way
Organization: Individual
E-mail: jennaway@gmail.com
Submitted on: 3/27/2012

Comments:

· I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

· We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

· Furthermore, it attempts to dissolve the CSAO (Charter Schools Administrative Office) and turn over administrative functions to the individual charter school or DOE.

· Charter schools have local governance called the Local School Board with the following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

· Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

· Individual school accountability like annual audits would be another lesson learned from charter schools.

· If our children do not get adequate funding, the rest of this bill is empty talk.

FINTestimony

m: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 27, 2012 7:27 PM
To: FINTestimony
Cc: hsaufferer@yahoo.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Heidi Saufferer
Organization: Individual
E-mail: hsaufferer@yahoo.com
Submitted on: 3/27/2012

Comments:

Charter schools aren't perfect. I can understand concern from the findings in the auditor's report. But this bill needs to address fundamental problems in the charter school program before addressing the auditor's findings or we risk punishing the succeeding charter schools! We can't afford to do that!

Fundament problems such as - The lower per-pupil funding in charter schools than DOE schools and the lack of any mechanism or support for charter schools to raise funds for facilities.

These two problems DISADVANTAGE charter schools! Yet the charter schools succeed, my children are getting a better education at our charter school (HAAS) than I could have ever dreamed possible! Public or private! They are learning from teachers passionate about teaching in a safe and nurturing environment.

Effort should be put into supporting and growing our succeeding charter schools rather than punishing all the charter schools for the blunders of a few.

Lastly, unlike DOE schools, parents can pull their children from a charter school and send them to another school, DOE or charter. If a charter school is failing the kids, the parents would pull them from the school.

Don't disadvantage our charter schools further with this bill, give our charter schools and our children the equality they deserve!

FINTestimony

m: mailinglist@capitol.hawaii.gov
sent: Tuesday, March 27, 2012 7:57 PM
To: FINTestimony
Cc: casufferer@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: chad Saufferer
Organization: Individual
E-mail: casufferer@gmail.com
Submitted on: 3/27/2012

Comments:

Charter schools aren't perfect. I can understand concern from the findings in the auditor's report. But this bill needs to address fundamental problems in the charter school program before addressing the auditor's findings or we risk punishing the succeeding charter schools! We can't afford to do that!

Fundament problems such as - The lower per-pupil funding in charter schools than DOE schools and the lack of any mechanism or support for charter schools to raise funds for facilities.

These two problems DISADVANTAGE charter schools! Yet the charter schools succeed, my children are getting a better education at our charter school (HAAS) than I could have ever dreamed possible! Public or private! They are learning from teachers passionate about teaching in a safe and nurturing environment.

Effort should be put into supporting and growing our succeeding charter schools rather than punishing all the charter schools for the blunders of a few.

Lastly, unlike DOE schools, parents can pull their children from a charter school and send them to another school, DOE or charter. If a charter school is failing the kids, the parents would pull them from the school.

Don't disadvantage our charter schools further with this bill, give our charter schools and our children the equality they deserve!

FINTestimony

m: mailinglist@capitol.hawaii.gov
sent: Wednesday, March 28, 2012 6:57 AM
To: FINTestimony
Cc: crownofisis@juno.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nicole Albright
Organization: Individual
E-mail: crownofisis@juno.com
Submitted on: 3/28/2012

Comments:

Aloha - My name is Nicole Albright. I am a small business owner and long time resident of Pahoia Hawaii. My son is a student at Hawaii Academy of Arts and Sciences and I am VERY CONCERNED about SB 2115. Many in my community who know about this are concerned, and many do not even know because there is no information widely available. I appeal to the Financial Committee to halt this bill, seeking further discussion. I appeal to Rep. Faye Hanohano to represent the people of Puna who do not wish to see their charter schools suffer further.

Currently there is inequity of funding for Charter School students, taking more money away from charter schools will only create suffering and disadvantage for the children. Despite the lesser funding available, charter schools provide an excellent alternative option for parents who do not wish to send their children to DOE schools (Pahoia Elementary and High for example). Pahoia is not an extremely affluent location. People who live here know how to get by with less and there is a real "can do" spirit which is exemplified - particularly in the staff of charter schools.

To make an advisory board based in Honolulu and take decision making away from local residents on the school board would be extremely foolish and selfish. How can someone living in Oahu understand the issues intrinsic to a school in rural Pahoia?

If anything, charter schools need MORE funding, so as to bring them up to equal with other DOE students. Title VI of the Civil Rights Act of 1964 clearly states that you cannot create subclasses in education. This bill will do precisely that. PLEASE do not pass this Bill without further discussion and revision. PLEASE consider the effects of your decision on the people who will have to live with it.

Thank You.

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Wednesday, March 28, 2012 2:39 PM
To: FINTestimony
Cc: missmholmes@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Malia Holmes
Organization: Individual
E-mail: missmholmes@gmail.com
Submitted on: 3/28/2012

Comments:

I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

·We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

·Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

·Individual school accountability like annual audits would be another lesson learned from charter schools.

·If our children do not get adequate funding, the rest of this bill is empty talk.

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Wednesday, March 28, 2012 3:20 PM
fo: FINTestimony
Cc: arunadee@hotmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Aruna Dee
Organization: Individual
E-mail: arunadee@hotmail.com
Submitted on: 3/28/2012

Comments:

Charter schools needs funding. This is about our children's education. It is a shame that our children have to go thru all this hassle for education. I support charter schools because of small class size which means no bullying. There is money for unnecessary things but why not education. Give the kids a break and funding should be given to every school. Think for children, these are our future and we are destroying their future. Shame, shame.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 4:41 PM
To: FINTestimony
Cc: nschomer@msn.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nadia Ranne
Organization: Individual
E-mail: nschomer@msn.com
Submitted on: 3/28/2012

Comments:

I oppose SB2115. It does not address the major problems charter schools are facing - equitable funding and facilities funding. Declining per pupil allocations over the past four years are not proportional to the cuts made in other sectors of government and the Department of Education. The proposal to dissolve the Charter Schools Administrative Office and turn over administrative functions to the individual charter schools is not well thought out or realistic. Limiting employees to 30% of the Local School Board will not allow the schools voice to be heard. In rural areas like Pahoia, it will be difficult to find volunteers to serve on the board who meet the new criteria. Charter Schools are an integral part of our communities giving families more high quality and specialized choices for education. Children thrive and communities get stronger. I want these options for my children. Please oppose this bill and support charter schools. Mahalo!

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 7:53 PM
To: FINTestimony
Cc: elizabeth_kraft@notes.k12.hi.us
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elizabeth Kraft
Organization: Individual
E-mail: elizabeth_kraft@notes.k12.hi.us
Submitted on: 3/28/2012

Comments:

·I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

·We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

·Furthermore, it attempts to dissolve the CSAO (Charter Schools Administrative Office) and turn over administrative functions to the individual charter school or DOE.

·Charter schools have local governance called the Local School Board with the following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

·Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

·Individual school accountability like annual audits would be another lesson learned from charter schools.

·If our children do not get adequate funding, the rest of this bill is empty talk.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 29, 2012 12:03 PM
To: FINTestimony
Cc: reachbreze@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Breze Hyatt
Organization: Individual
E-mail: reachbreze@gmail.com
Submitted on: 3/29/2012

Comments:

I am in opposition to SB2115. This bill does not support the main issues in our Hawaii Public Charter Schools. Funding is essential for a quality environment for our children to learn as much as it is for the teaching staff to teach. There is no facilities support.

This bill is considering taking away the CSAO (Charter School Administrative Office) and having the individual charters schools handle administrative functions. This will decrease the amount of time that will be available to spend adequate time preparing curriculum for students education due to increased responsibilities doing administrative duties.

This measure wants to limit employees to 30% of the the governing board. The employees should be the majority of the board with 30%-40% of the board being members of the community. The employees are the ones who are with our children for the most part of the day and know what the individual needs of the students are.

Parents and community input is really only about what they think is best for the students and not based on what the students actual needs are.

As a parent of a child who attends Hawaii Academy of arts public charter schools. I would like to add that I am impressed with the quality of education that my child receives. The style of teaching being implemented is beneficial for many children including mine. The staff is genuine in their approach to teaching and respect the children so in turn they gain the respect of the students. Once the teachers gain the respect of the children it improves the quality of learning that takes place ten fold. Based on my observation with my child, I have found that the hands on learning approach helps in the students retention of what they learn . The learning environment that the staff creates for the children is a caring environment that encourages individuality yet in a structured manner. They acknowledge the students individuality yet stresses the importance in team work. They let the students know that it is ok to be who they are in a way that is not threatening or disrespectful to others.

I am extremely satisfied with the staff and feel that they do their best with what they have. They really need funding for their facilities to be able to continue implementing the enrichment of our students education.

Without adequate funding the rest of this bill holds no bearing.

Thank you for taking time to consider my testimony prior to making a stance on this bill.

Sincerely,

FINTestimony

m: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 3:48 PM
To: FINTestimony
Cc: paradisimotropicalspa@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Comments Only
Testifier will be present: No
Submitted by: olivia cockcroft
Organization: Individual
E-mail: paradisimotropicalspa@gmail.com
Submitted on: 3/28/2012

Comments:

Please support public charter school students by funding them fairly & equally to other public school children in the state. Imagine how well charter school students will thrive when actually provided facilities, materials and financial support! My son graduated 4.0 in a tent! What does that say about public education...

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 9:58 AM
To: FINTestimony
Cc: Mentnech@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael
Organization: Individual
E-mail: Mentnech@gmail.com
Submitted on: 3/28/2012

Comments:
This is a poor solution to small problems

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 5:47 PM
To: FINTestimony
Cc: weniki43@fastmail.net
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Wendy Baker
Organization: Individual
E-mail: weniki43@fastmail.net
Submitted on: 3/28/2012

Comments:

This is a civil rights issue! Why would my son be worth more if he were attending a traditional DOE school as opposed to a PUBLIC Charter School?! The inequality and blatant bias against Charters is absurd. Insure equal funding for all students: oppose SB211.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 8:00 PM
To: FINTestimony
Cc: biblewilliam@yahoo.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: William Bible
Organization: Individual
E-mail: biblewilliam@yahoo.com
Submitted on: 3/28/2012

Comments:

· I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

· We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

· Furthermore, it attempts to dissolve the CSAO (Charter Schools Administrative Office) and turn over administrative functions to the individual charter school or DOE.

· Charter schools have local governance called the Local School Board with the following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

· Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

· Individual school accountability like annual audits would be another lesson learned from charter schools.

· If our children do not get adequate funding, the rest of this bill is empty talk.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 7:55 PM
To: FINTestimony
Cc: kraftrob6011@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robert Kraft
Organization: Individual
E-mail: kraftrob6011@gmail.com
Submitted on: 3/28/2012

Comments:

·I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

·We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

·Furthermore, it attempts to dissolve the CSAO (Charter Schools Administrative Office) and turn over administrative functions to the individual charter school or DOE.

·Charter schools have local governance called the Local School Board with the following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

·Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

·Individual school accountability like annual audits would be another lesson learned from charter schools.

·If our children do not get adequate funding, the rest of this bill is empty talk.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 7:54 PM
To: FINTestimony
Cc: hunybabe@yahoo.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Beth Gall
Organization: Individual
E-mail: hunybabe@yahoo.com
Submitted on: 3/28/2012

Comments:

·I am in opposition to SB2115 because it does not address the real problems in charter schools and that precisely is equitable funding and facilities funding.

·We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

·Furthermore, it attempts to dissolve the CSAO (Charter Schools Administrative Office) and turn over administrative functions to the individual charter school or DOE.

·Charter schools have local governance called the Local School Board with the following stakeholder makeup: administration, faculty, staff, student, parents, and community members. Now this measure wants to limit employees to 30% of the governing board. On our local school board of nine members, that would allow only two voices from the school. All employed members of the board provide valuable, first-hand input into the operation and policy making of the school. Also, in rural areas like Pahoehoe, where do you find these volunteer people to serve on the board who already come with financial, business, government, and educational backgrounds?

·Instead of undermining the charter schools' community decision making process, you should give more decision making power to your School Community Councils (at every public school in Hawaii) so they can bring decision making back to the communities where they belong.

·Individual school accountability like annual audits would be another lesson learned from charter schools.

·If our children do not get adequate funding, the rest of this bill is empty talk.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 8:03 PM
To: FINTestimony
Cc: jadefair@hotmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Danya Nelson
Organization: Individual
E-mail: jadefair@hotmail.com
Submitted on: 3/28/2012

Comments:

We have witnessed a declining per pupil amount (34.4% reduction) over the past four years and know that it is not proportional to the cuts made in other sectors of government and the DOE.

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Wednesday, March 28, 2012 9:31 PM
To: FINTestimony
Cc: seraphim888@gmail.com
Subject: Testimony for SB2115 on 3/29/2012 5:30:00 PM

Testimony for FIN 3/29/2012 5:30:00 PM SB2115

Conference room: 308
Testifier position: Comments Only
Testifier will be present: No
Submitted by: sarah goldman
Organization: Individual
E-mail: seraphim888@gmail.com
Submitted on: 3/28/2012

Comments:

I am oposed to this bill because it does not address the issue of equitable funding. Charter schools provide quality education and need our support, not funding cuts and inequities.