



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Wednesday, March 14, 2012, 2:10 PM
State Capitol Room 309

Testimony of
NEIL ABERCROMBIE
Governor, State of Hawaii

To the House Committee on Education
Representative Roy Takumi, Chair, Education Committee
Representative Della Au Belatti, Vice Chair, Education Committee

SB 2115 SD-2 - Relating to Charter Schools

Chair Takumi, Vice Chair Belatti, and members of the Committee:

Thank you for the opportunity to testify in support of SB 2115 SD2.

SB 2115 SD2 repeals chapter 302B, HRS and establishes a new chapter governing charter schools based on the recommendations of the Charter School Governance, Accountability, and Authority Task Force established by Act 130 (Session Laws of Hawaii 2011). Senate Draft 2 provides clarifying amendments and amends the process by which non-facility per pupil general funds are finalized each year between the Department of Education and charter schools.

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

Now is time for SB 2115 SD2. The genesis of state's charter school law was in 1994, and the law under which most charters are authorized was passed in 1999. More than a decade later, Hawaii's charter schools and the status of the charter movement nationally have evolved. As evident by recent appeals by charter schools to the Board of Education, defining charter authorizers' authority, the process and requirements to establish quality charter schools, and clear expectations for performance and accountability are critical to ensuring quality public educational opportunities. Furthermore, the December 2011 "Performance Audit of the Hawaii Public School

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

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

SB 2115 SD2 incorporates the lessons learned, best practices, and the National Alliance for Public Charter Schools “Model Law.” I support SB 2115 SD2 because it clarifies relationships and responsibilities of the parties seeking to develop, support and review our public charter schools. It also aligns accountability and authority among the entities responsible for oversight of charter schools. Furthermore, SB 2115 SD2 eliminates the cap on the number of charter schools that may be authorized. I applaud the Task Force and the Legislature for being open to more quality charter schools. Like other public schools, charter schools should be held accountable for their results and expected to share and replicate successes. We should encourage and nurture schools that produce successful results for students, and charter schools have an important role in improving public education for Hawaii.

Thank you for your consideration.

Date: 03/14/2012

Committee: House Education/House Labor & Public Employment

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 2115,SD2(sscr2750) 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:

Supports with concerns regarding sec 28 (c).

§ - 28 (c) would require that by November 15 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 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 a 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. 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.

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).



HAWAII STATE ETHICS COMMISSION

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

March 14, 2012

Re: **Testimony on SB No. 2115, SD 2, Relating to Charter Schools**

Hearing: Wednesday, March 14, 2012, 2:10 p.m.
State Capitol, Conference Room 309

Written Testimony From: Hawaii State Ethics Commission

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

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

The State Ethics Commission takes no position with respect to the new governance structure for Hawaii's charter schools established by Senate Bill 2115, SD 2, Relating to Charter Schools. The Ethics Commission, however, requests that the legislature clarify its intent whether the state entities created by the bill, including the public charter schools, the Public Charter School Commission, the governing boards, and their respective employees and members, are subject to and required to comply with the State Ethics Code, chapter 84, Haw. Rev. Stat. The Ethics Commission also respectfully offers certain amendments to the bill to more clearly reflect the legislature's intent.

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

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

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

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

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

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

- (1) Collective bargaining under chapter 89; provided that:
 - (A) The exclusive representatives as defined in chapter 89 and the governing board of the charter school may enter into supplemental agreements that contain cost and noncost items to facilitate decentralized decision-making;
 - (B) The agreements shall be funded from the current allocation or other sources of revenue received by the charter school; provided that collective bargaining increases for employees shall be allocated by the department of budget and finance to the charter school’s authorizer for distribution to the charter school; and
 - (C) These supplemental agreements may differ from the master contracts negotiated with the department;
- (2) Discriminatory practices under section 378-2; [and]
- (3) Health and safety requirements[.]; and
- (4) Standards of Conduct, chapter 84.

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

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

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

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

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

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

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

³ § -3(j).

⁴ § -12(f).

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

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

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

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

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

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

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

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

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

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

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

Thank you for the Committees' consideration of the Ethics Commission's testimony on SB No. 2115, SD 2.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2115, S.D. 2, RELATING TO CHARTER SCHOOLS.

BEFORE THE:

**HOUSE COMMITTEES ON EDUCATION AND ON
LABOR AND PUBLIC EMPLOYMENT**

DATE: Wednesday, March 14, 2012 **TIME:** 2:10 p.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): David M. Iouie, Attorney General, or
James E. Hiverson, Deputy Attorney General

Chairs Takumi and Rhoads and Members of the Committees:

The Department of the Attorney General offers the following comments on this measure. In the definition of "governing board" in section 1 of the bill, on page 5, at line 18, we suggest that, after "of their employers," this Committee add "and is considered the employer of charter school employees for purposes of chapter 76, 78, and 89;" before the "and" at the end of paragraph (3).

This is to clarify that the governing board is the employer. We currently have a number of cases in litigation where the union claims the Department of Education is the employer and not the local school board.

We respectfully recommend that the committee make this suggested amendment.



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEES
ON
EDUCATION
AND
LABOR & PUBLIC EMPLOYMENT

March 14, 2012

2:10 p.m.

SB 2115, SD2

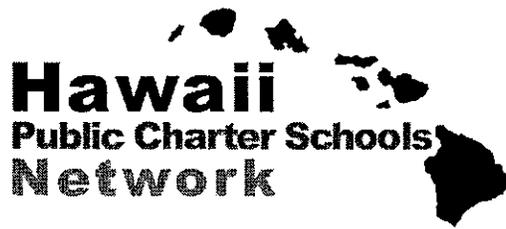
RELATING TO CHARTER SCHOOLS.

Chairs Takumi and Rhoads, Vice-Chairs Belatti and Yamashita, and members of the committees, thank you for the opportunity to submit testimony on SB 2115, SD2. 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 governing board, 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 25, paragraph (d), lines 9 to 18, and page 58, paragraph (b), lines 2 to 12. Thank you.



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

DATE: Wednesday, March 14, 2012
TIME: 2:15 p.m.
PLACE: Conference Room 309
State Capitol

Chair Takumi, Vice Chair Belatti, Chair Rhoads, Vice Chair Yamashita and members of the Education and Labor and Public Employment Committees,

Re: SB2115 SD2 & 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. The Network's Board of Directors and membership have not been able to meet to review the changes reflected in SD2. We are scheduled to meet tomorrow, March 15.

Please consider the following comments/suggestions for amendments:

SB2115 SD2

Section 1, pg7, 12 -

Although this item seeks to clarify the board's responsibility to consider which of its policies are deemed applicable to the charter schools, the concern is that certain policies could force a charter school to operate in conflict with a charter school's contract or its charter.

Section 5, pg17, e -

Possible concerns with the immunity from civil and criminal liability.

Section 10, pg21, b -

Discussion occurred in the CSGAATF that Authorizers should not be providing technical assistance to charter schools as it creates conflicts of interest and gray area. Although there is language in this bill creating reporting mechanism and language for potential conflict of interest situations, an authorizers oversight is overarching and would leave virtually every technical support a potential conflict.

Section 28, pg62, 1 -

Schools have mentioned not receiving A+ program services or money from the department.

SB2116 SD2

Add to Transition Coordinator responsibilities "to create and assist a workgroup consisting of representatives from the DOE, Commission, CSAO and charter schools to implement (SB 2115 SD2, Section 28, c - Money follows the student).

Adequate funding to support the Transition Coordinator's lengthy list of responsibilities.

Conclusion

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

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.



Lynn Finnegan
Executive Director

NEIL ABERCROMBIE
GOVERNOR



ROGER McKEAGUE
EXECUTIVE DIRECTOR

STATE OF HAWAII
CHARTER SCHOOL ADMINISTRATIVE OFFICE
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: 586-3775 Fax: 586-3776

FOR: SB2115 SD2 Relating to Charter Schools
DATE: Wednesday, March 14, 2012
TIME: 2:10 p.m.
COMMITTEE(S): House Committee on Education
House Committee on Labor & Public Employment
ROOM: Conference Room 309
FROM: Roger McKeague, Executive Director
Charter School Administrative Office

Testimony in support of the intent and goals of SB2115 SD2

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

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

The CSAO actively participated in the Charter School Governance, Authority, and Accountability Task Force (CSGTF) established by Act 130/2011 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 many of our detailed suggested amendments are attached.

Major comment #1: 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.

Major comment #2: 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.

Major comment #3: The funding and staffing mechanisms for the Commission need to be clarified.

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."

Perhaps statutory creation of a line item that is funded separately from the charter school allocation is appropriate. However, 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.

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 #4: The funding and finance section of the bill is unclear.

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.

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 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 #3: Charter schools and their governing boards, the commission, and other authorizers should develop internal policies and procedures for standards of ethical conduct and be exempted from Chapter 84.

The State Ethics Commission submitted testimony on an earlier version of this bill stating that it should be clarified whether charter schools and their employees are subject to the State Ethics Code or not, and we agree. According to § -12(f), charter schools and their governing boards are required to develop policies and procedures consistent with the ethical standards of conduct, pursuant to Chapter 84. We recommend that this language be expanded and read similarly to § -12(d), which requires governing boards to develop procurement policies but exempts them from the State Procurement Code. Detailed policies and procedures relating to ethical standards of conduct would be a sufficient substitution for Chapter 84 while allowing for greater flexibility and autonomy.

Like the procurement code exemption, there should also be language in § -25 exempting charter schools and their employees, the commission and its employees, and authorizers and their employees from Chapter 84.

Comment #4: The Board of Education should not be the final arbitrator for any dispute.

Charter schools and charter applicants may appeal to the Board on significant authorizer actions regarding charter revocation, nonrenewal, and non-issuance according to § -15. We find it unnecessary and overly burdensome to the Board to allow any dispute between an authorizer and a charter school to be brought to the Board. Further, it undermines the authority of authorizers. We recommend removing § -22 entirely.

Comment #5: It should be clarified that the governing board has sole jurisdiction over employee grievances.

The Department of the Attorney General submitted testimony on an earlier version of this bill recommending that the definition of the governing board be amended to clarify that the governing board has sole jurisdiction over employee grievances. We agree with this recommendation and have incorporated it into the attached amendments.

Comment#6: 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.

Comment #7: 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 #8: 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 #9: 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.

While this is a summary of comments and amendments, please review the attachment for more detailed recommendations. We do not have recommended language for all of our comments yet, but we should have them soon.

Thank you for this opportunity to submit testimony.

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2115
S.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.

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 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. 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.

(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) 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; 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, with the approval of the commission, 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 salaries of the executive director and staff shall be set by the commission 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) 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 holds a charter contract with 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 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 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 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 their governing boards shall develop internal policies and procedures consistent with ethical standards of conduct, pursuant to chapter 84. Governing boards shall be exempt from chapter 84, but shall develop internal policies and procedures for gifts, confidential information, fair treatment, conflicts of interests, and contracts consistent with the goals of the standards of ethical conduct, pursuant to chapter 84. Governing boards and charter schools are encouraged to use the provisions of chapter 84 wherever 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 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~~ 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 charter 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.

§ -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 a 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 a 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.

§ -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. (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 in which case the revocation timeframes set forth in section -18 shall apply.

(d) Notwithstanding section -18 to the contrary, every authorizer shall have the authority to take appropriate corrective actions or exercise 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 timeframe.

(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.

§ -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;

(2) 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;

(3) A line-item breakdown of all federal funds received by the department and distributed to authorizers; and

(4) 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 any dispute between an authorizer, charter school, governing board, and the department.~~

~~(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.~~

§ -223 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.

§ -234 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.

§ -245 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, but shall develop internal policies and procedures for gifts, confidential information, fair treatment, conflicts of interests, and contracts consistent with the goals of the standards of ethical conduct, pursuant to chapter 84. Charter schools, the commission, and authorizers 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, commission, or authorizer to any other provision of chapter 84.

(de) 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.

(ed) 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.

§ -256 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.

§ ~~267~~ **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.

§ ~~278~~ **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 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) by November 15; 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 by November 30.

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.

~~—§ 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.~~

§ -2830 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.

§ ~~2931~~ **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 four years; shall offer the executive director a written contract; and may terminate the executive director's contract only for cause. 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;

(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.

(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 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 authorizers. 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.]~~ -234."

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-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] 2013-14, and every year thereafter, the [office] authorizer shall distribute the allocations due to a charter school directly to the charter school.

SECTION 11.2. 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 11.3. 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 11.4. 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~~15. 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~~16. Chapter 302B, Hawaii Revised Statutes, is repealed.

PART IV

SECTION ~~16~~17. 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~~18. 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~~19. 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~~20. 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~~21. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

| SECTION ~~21~~22. This Act shall take effect upon its approval; provided that section 3 of this Act shall be repealed on July 1, 2013.

Report Title:

Education; Charter Schools

Description:

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)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

NEIL ABERCROMBIE
GOVERNOR



JOHN R COLSON
CHAIR

STATE OF HAWAII
CHARTER SCHOOL REVIEW PANEL

73-4460 Queen Kaahumanu Highway, #128, Kailua-Kona, Hawaii 96740
Tel: 721-8615 Fax: 334-1114

FOR: SB2115 Relating to Charter Schools
DATE: March 14, 2012
TIME: 2:10 p.m.
COMMITTEE(S): House Committee on Education
ROOM: Conference Room 309
FROM: John R Colson, Chair
Charter School Review Panel

Testimony is comments only on SB2115

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

Aloha, I am John R Colson, Chair of the Charter School Review Panel (CSRP) and submit this testimony on behalf of the CSRP.

The CSRP actively participated in the Charter School Governance, Authority, and Accountability Task Force (CSGTF) established by Act 130/2011 with former CSRP member Ruth Tschumy serving as a member on the task force. The CSRP supported the intent and goals of the CSGTF to increase the autonomy and accountability for charter schools, and now we provide comments on SB2115 (which arose out of the CSGTF).

Comment #1: Charter schools need adequate support services in the absence of the Charter School Administrative Office (CSAO).

The CSGTF recommended that many of the current functions of the CSAO be placed with the charter school governing boards. While the CSRP understands that the intent is to provide governing boards with more autonomy, it is imperative that the responsibility for the services currently provided by the CSAO not be shifted to the charter schools without also providing the financial resources to meet these obligations. Smaller schools in particular would be significantly and disproportionately impacted if services currently performed by the CSAO are shifted to the charter schools.

In addition, the CSRП is concerned that certain functions may need to remain at a centralized government agency. If state level support responsibilities are transferred to the Commission, it is imperative that adequate staff support is allocated to the Commission.

Comment #2: The funding mechanism for the Commission needs to be defined.

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

Statutory creation of a line item that is funded separately from the charter school allocation would be appropriate. However, 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 by the Commission.

Comment #3: Clarify that the Commission has the authority to hire and oversee Commission staff.

As alluded to in the aforementioned comment, § -3(j) is the section that addresses Commission staff. The CSRП suggests that it be clarified to state that the Commission hires and oversees the Commission staff (which duties could be delegated to an Executive Director of the Commission).

Comment #4: More clearly define “technical support” and purchasable “services.”

In § -5(f) of the bill, “technical support” is vaguely defined. Further, “services” that can be purchased according to § -10 are not defined. The CSRП suggests that the language be more clear regarding how to distinguish between the two.

Comment #5: Define “market rates” for purchasable services.

Section -10(b) allows for an authorizer to sell services to charter schools that it authorizes at market rate. The CSRП is concerned that this poses a financial conflict of interest for authorizers, as an authorizer may be in a position of making a decision that adversely affects a school from which it receives financial payment. The CSRП suggests that either (1) this section be deleted, or (2) the authorizer be limited to selling the services at cost.

If neither of these suggested amendments are adopted, the CSRП recommends further defining the term “market rate”.

Comment #6: Amend language to make more clear the Department's responsibility regarding providing services to charter schools.

In order to clarify roles and responsibilities, the CSRP recommends that the second sentence of § -30 be amended to read as follows: "The department shall offer for purchase by a charter school all applicable central services at an annual cost to be negotiated between the Commission and the department."

Comment #7: The process in which a nonprofit organization establishes a conversion charter school needs to be clarified.

There are two subsections in the bill that suggest the conversion charter application process for a nonprofit organization. § -14(b) states (emphasis added): "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)."

This suggests that a nonprofit can create a governing board during the application processes the same way any of the other eligible applicants can. However, § -14(e) states: "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); provide that: (1) As the governing body of the conversion charter school, the governing board shall be composed of the board of directors of the nonprofit organization..."

When a nonprofit applies for a conversion charter, it is unclear whether they are required to establish their board of directors as the governing board or if they have the option to establish an entirely separate governing board. We recommend clarifying this section.

In addition, the CSRP recommends that the phrase "or nonprofit organization" be deleted from § -14(b). This would bring that statute into alignment with one of the foundational principles of charter schools, which is that the schools ideally arise out of their communities as a result of a recognized community need and tangible community support.

Comment #8: The Board of Education's appellate power should be clarified.

Section -15 explains that the Board has the power to decide appeals of decisions made by an authorizer regarding charter school applications, reauthorizations, and revocations. However, § -22 goes further to describe the Board as the final arbitrator of "any dispute between an authorizer, charter school, governing board, and the department."

The CSRP suggests that this section be deleted, as it appears to contradict § -15 and also creates an overly broad appellate remedy. If the section is not deleted, the CSRP suggests that the Board's appellate power created in this section be clarified.

Further, the CSRP suggests the addition of the following language: "The board shall adopt rules and procedures that recognize the authorizers as the fact finding and oversight bodies."

Comment #9: It is unclear who submits the annual funding request to the legislature.

The CSRP requests that the first sentence of § -28 of the bill be amended to read as follows: "Beginning with fiscal year 2012-2013, and each fiscal year thereafter, the non-facility general fund per-pupil funding provided for charter schools shall be, at a minimum, 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 CSRP strongly reiterates the need for adequate and equitable funding for our charter school keiki.

Thank you for this opportunity to submit testimony.



SB 2115 SD 2
RELATING TO CHARTER SCHOOLS
Committee on Education
Committee on Labor & Public Employment

March 14, 2012

2:10 p.m.

Room 309

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB 2115 SD 2, 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 notes the difficulties and conflicts that arose between the governing board of a non-profit organization and the school communities and key stakeholders that the board served at Kamaile Academy in 2010 and recently at Waimea Middle school. Both Kamaile and Waimea are conversion charters whose participant groups were excluded from the governing body by § -14(e)(1).

OHA believes that public interest and access to governance in the conversion charter schools is not currently being honored in SB 2115 SD 2. For example, proposed statute § -14(e)(2)(A) locks the school community into a relationship with the nonprofit organization. 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 school communities like Kamaile and Waimea the opportunity to reorganize and submit revised applications to the charter school commission.

OHA also recommends that § -14(e)(1) be amended to eliminate language that bars participant groups from serving on the governing body and § -12(a) be eliminated because of its exclusionary effect.

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 governance of conversion charter schools.

Mahalo for this opportunity to provide testimony.



KAMEHAMEHA SCHOOLS®

House Education Committee
House Labor and Public Employment Committee

March 14, 2012

2:10 p.m.

Capitol Room 309

SB 2115 SD2, 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, 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 enhance 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.

Thank you for the opportunity to testify.



KANU O KA 'ĀINA LEARNING 'OHANA

Grows womb-to-tomb models of education that advance Hawaiian culture for a sustainable Hawai'i

Testimony as of March 14, 2012
SB2115 and SB2116
EDN/LAB

WEDNESDAY, MARCH, 14, 2012
House Conference Room, 2:10pm

Aloha,

Rep. Roy M. Takumi, Chair
Rep. Della Au Belatti, Vice Chair

Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

and members of the committee:

My name is Taffi Wise, testifying on behalf of Kanu o ka 'Aina NCPCS a member of Na Lei Na'auao & HPCSN.

Thank you for allowing me to share the school level perspective of SB2115 SD2 and SD2116 SD2.

The following are my requests regarding the existing language:

1. Section 28 (Funding and finance) please consider not limiting the *allocation*, *clarity of formula*, and *distributing formula* to the "general fund" money and include the federal funding too. As evidenced by the "equity study" led by Senator Takamine in 2009-2010 the social justice issue of funding in Hawai'i stems from an inappropriate distribution of federal funds with the status of one LEA/SEA as the justification/excuse. The allocation of federal funds needs to be added to the language so all qualified and eligible students are able to receive their fair share.
2. 28 (Funding and finance), with regard to the following expert:

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

Kanu has been repeatedly denied access to services and funding for afterschool programs specifically A+ and Adult Education, yet it remains excluded from the "general fund allocation".



KANU O KA 'ĀINA LEARNING 'ŌHANA

Grows womb-to-tomb models of education that advance Hawaiian culture for a sustainable Hawai'i

3. 28 (Funding and finance), I would also request a timely disbursement of funds no matter what category of funding. No office should be holding state or federal funds until the end of the school year in which the child should be benefiting from the resources, please consider the following language.

Provide the remaining ten per cent of a charter school's per-pupil allocation and all federal funding by January 31 of each year;

4. Please consider removing the CSAO criteria as recently put back into SD2. The charter schools through the CSRP have PAID OFF five CSAO Executive Directors. The following contradictory language will create another "set up to pay off" scenario.

SECTION 3. (a) There is established a charter school administrative office...The state public charter school 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, 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... vs ...the Description which states ...Maintains the charter school administrative office until July 1, 2013.

The neutral and expert NACSA report diligently used by the Task Force has outlined an "Administrative Director" position; perhaps this position should be filled with more priority to accommodate any concerns regarding the transition.

5. **We strongly support thoughtful implementation of charter contracts**, drawing from models provided by NACSA and the National Alliance for Public Charter Schools. We **ask that specific language be added to the draft bill to ensure charter contracts are fair, bilateral and collaborative**, recognizing unique community goals and circumstances.
6. We advocate that **adequate resources be provided** – including formal contractual support from NACSA and the **National Alliance for Public Charter Schools** – for the proposed Implementation and Transition Coordinator to expedite a successful transition. We recommend drawing from the public charter schools Over-Appropriation Fund to assure a high level of expertise, as well as sufficient administrative support throughout the transition.



KANU O KA 'ĀINA LEARNING 'OHANA

Grows womb-to-tomb models of education that advance Hawaiian culture for a sustainable Hawai'i

We respectfully acknowledge that the task force was not charged with addressing funding and facilities issues, however we must reiterate our position as a matter of social justice that public charter schools be suitably resourced to succeed.

Thank you for the opportunity to testify, respectfully submitted,
Taffi Wise

Key Facts:

- Charters cannot charge tuition
- Charters are bound by collective bargaining
- Charters are subject to NCLB and all State testing requirements
- Charters run only on the cash they have in-hand
- Charters must be in compliant safe facilities



Ho'okāko'o Corporation

Testimony to the House Committee on Education
Representative Roy Takumi, Chair
Representative Della Au Bellati, Vice Chair
Re: SB 2115 & SB 2116 SD2 – Relating to Charter Schools

Wednesday, March 14, 2012, 2:10 p.m.
State Capitol, Conference Room 309

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

As the representative of Ho'okako'o Corporation (HC) participating on the Charter School Governance Task Force, I strongly supported the purpose of the Task Force to: "provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of the charter school system" (Act 130, SLH 2011). Among the more critical issues addressed on this Task Force were: strong governance models, meaningful accountability, and increased flexibility and autonomy of charter schools and closer alignment to national charter school systems. For ten years, HC has engaged our community-based, conversion charter schools in innovative teaching and learning opportunities that set high expectations for student outcomes. We feel that this bill is a meaningful step towards addressing these priorities as a state system.

The Task Force discussions were often characterized by healthy debate about complex issues that confront our public education system in Hawaii however members can be commended for reaching agreement about nationally recognized, successful models for charter school governance and accountability, and the need for a set of defined expectations for student and school performance.

This document summarizes our position:

1. HC strongly supports the introduction of a performance-based charter contract, in place of the Detailed Implementation Plan (DIP), to strengthen the reauthorization process and articulate expectations for charter school eligibility. If well-planned, this document should set clear expectations for student outcomes and allow individual charter schools flexibility in defining their own metrics for student and teacher success. We feel that this measure adds value and

meaningful accountability to the process of reauthorization, and highlight this as a priority in the redesign of the new charter governance structure.

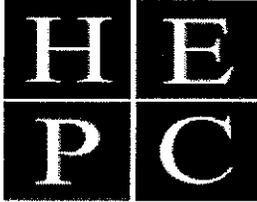
2. HC supports the new charter school governance model that is closely aligned to that of the National Charter School Model Law and reconstitution of the Charter School 'Commission'. As the Local School Board for three (3) public conversion charter schools it is clear to us the need for a strong governance model and fiscal accountability.
3. HC supports the renaming and reconstitution of the Local School Boards, especially as it relates to increased accountability for governing bodies. This language also strengthens the autonomy with which boards govern charter schools in their local communities.
4. The definition of "organizational viability" has been amended in Section 2, §-1 to include requirements that a charter school "complies with all board policies deemed applicable to charter schools by the board." HC requests further clarification regarding specifically which policies shall be applicable to charter schools and how the policies shall be applied.
5. The establishment of the Charter School Administrative Office (CSAO) shall be repealed on July 1, 2013. HC requests further clarification regarding how charter schools can acquire technical administrative assistance formerly provided by the CSAO.

HC is committed to driving student success, effective teaching methods, and creating positive environments in which all charter schools may flourish. Thank you for the opportunity to testify on this measure.

Respectfully,



Megan McCorriston
Executive Director



HAWAI'I EDUCATIONAL POLICY CENTER
Informing the Education Community

Written Testimony
presented before the
House Committees on Education/Labor & Public Employment
March 14, 2012, 2:10 pm, Room 309
by
Donald B. Young, Director
Hawaii Educational Policy Center

SB 2115 SD2 RELATING TO CHARTER SCHOOLS

Chairs Takumi, Rhodes, 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. **Administrative Rules.** The courts have affirmed a 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 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.

2. **The Purposes of Charters.** HEPC continues to advocate for a purpose section for charter schools. The comprehensive re-codification of the law deserves a stronger justification than merely the implementation of task force recommendations. For the committee's consideration,

HEPC offers the following which incorporates elements of the original charter law as well as the 2006 re-codification:

§ - 2 Purposes of charter schools. Charter schools include (1) Providing administrators, parents, students, and teachers with expanded alternative public school choices in the types of schools, educational programs, opportunities, and settings, including services for underserved populations, geographical areas, and communities; (2) Encouraging and, when resources and support are provided, serving as a research venue for the development, use, and dissemination of alternative and innovative approaches to educational governance, financing, administration, curricula, technology, and teaching strategies; (3) to create new approaches to education 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; and (4) create genuine opportunities for communities to implement innovative models of community-based education.

3. **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" for many administrative functions more properly tasked to the office.
4. **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 attorney's 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.
5. **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 this testimony.

Testimony SB2115
House Committee on Education
March 14, 2012 Room 309 2:10 pm
Oppose

Dear Chair Tokumi and committee,

I am in opposition to Senate Bill 2115. First, I would like to acknowledge the work of the Charter Schools Governance Task Force for all the work and collaboration they performed in the interim of legislative sessions. The first and most important point is that I disagree with the repeal of Chapter 302B. The law has grown with the charter schools over the years and is comprehensive and well thought out. In fact, the new chapter retains 90% of 302B. The problem with the introduction of the new chapter is that it does not afford the charter school followers the advantage of seeing what is being stricken from 302B and what is added. I have been one of the followers of the statute 302B, and I had to read through the law to be able to find omissions. For instance, after several readings of the 75 pages of the proposed new chapter, I thought that the section of sports was omitted. I found it included on the bottom of page 66. In the ten or more years that I have been involved with charter schools, following changes to 302B has been way easier with statutory material to be repealed in brackets and struck through and new material underscored.

First of all, charter supporters worked for years to get some language in 302B that addressed facilities funding. In 2009, language was inserted in the law that said: “a calculation showing the per-pupil funding based on the department of budget and finance's debt service appropriation for the department of education divided by the department of education's actual enrollment that school year...” After significant work by a Facilities Financing Task Force, the law was changed in 2011 to read: “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”. I find no mention of facilities mention in the new chapter. The lack of facilities funding for charter school remains one of the most glaring omissions in charter school funding and can impact the Race to the Top funding.

Four main changes are evident in the proposed new chapter: 1) Elimination of the Charter School Review Panel and the creation of the Charter School Commission; 2) changing the composition of Local School Boards; 3) phasing out the Charter School Administrative Office and the Executive Director; and 4) Creating performance contracts instead of the Detailed Implementation Plan (as a contract).

From the description of the new Charter School chapter, the Panel is being replaced by a Commission which will not have the same stakeholder make-up as the Panel. The Commission will be staffed with an Executive Director, five other directors and four to five other staff members. This could amount to a lot of money and should be included as a line item separate (not taking from) per pupil funding.

The other change is to the make-up of charter's Local School Boards which will be called Governing Boards. The law will change the stakeholder percentage to 30% of employees of the school. That will mean that on our Governing Board of nine directors, there will be only two members allowed as employees at the school. Administrators are now allowed only an "ex-officio" seat as a non-voting member. Teachers and staff would be represented by two people. These stakeholder groups provide valuable input into the continuous quality improvement of the school. I also looked at the consideration given to governing board members and feel like getting that level of expertise in a rural community as a volunteer is unrealistic.

The change I disagree with the most is the removal of the CSAO and ED. We will be left without our own administrative support system and worse, no single (the buck stops here) person to speak for charter schools collectively. Small schools with small operation budgets contributed their 2% to an entity that built economy of scale for their administrative support. Imagine a small school with 40 students and a State budget of \$240K that would contribute \$4.8K to the CSAO for administrative support would now have a huge burden on their hands. Think too of the many steps (11 in all) it takes the CSAO to extract budget items from the FMS system and convert it to a transferable medium to the schools. Who would be that person at the individual charters that could do that task? Could the individual DOE schools operate without a central administrative system? Could the DOE operate without a superintendent? For the same reasons you answered no on these questions, is why charters need a central support system.

The last addition which is the performance contracts, I have only one concern with: the time for 32 charters to negotiate their performance contracts. If it takes years to complete all 32 contracts, what will be in place in the interim?

Overall, I have a feeling that the saying: "throwing out the baby with the bath water" fits this situation. Yes, we need to improve the law and the governance and operations. But how are the children doing overall? What will be the impacts on them with this sweeping overhaul? Please consider making amendments and not repeal 302B as we know it.

Thank you for this opportunity to testify.

Steve Hirakami

Director, Hawaii Academy of Arts & Science PCS



1003 Bishop Street • Pauahi Tower • Suite 2630 • Honolulu, HI 96813

Phone: (808) 532-2244 • Fax: (808) 545-2025

**Testimony to the House Committees on Education and on Labor and Public
Employment**

Wednesday, March 14, 2012

2:10 p.m.

Conference Room 309

**RE: Relating to Charter Schools – Senate Bill 2115 S.D. 2, Senate Bill 2116
S.D. 2**

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

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 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

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 11:36 AM
To: EDNtestimony
Cc: jbsestak@prodigy.net
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Betty Sestak
Organization: AAUW Windward Branch
E-mail: jbsestak@prodigy.net
Submitted on: 3/13/2012

Comments:

We support the strengthening of the charter schools and encourage more funding to bring them closer to the other public schools.

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 12:29 PM
To: EDNtestimony
Cc: nschomer@msn.com
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nadia Ranne
Organization: Individual
E-mail: nschomer@msn.com
Submitted on: 3/13/2012

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 Pahoehoe, 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. Please oppose this bill and support charter schools. Mahalo for your consideration!

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 12:31 PM
To: EDNtestimony
Cc: ninab@hawaii.edu
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM
Attachments: SB2115Buchanan.pdf

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Nina K. Buchanan
Organization: Individual
E-mail: ninab@hawaii.edu
Submitted on: 3/13/2012

Comments:

Aloha,

As a former member of the Charter School Review Panel and author of the grant from the National Association of Charter School Authorizers (NACSA), I strongly support SB 2115 and 2116.

Charter Schools are an essential addition to the system of public education in Hawaii so I applaud the Legislature for seeking to implement the recommendations by the recent evaluation conducted by NACSA to strengthen charter school governance and accountability provisions. Specifically, I support:

- Creation of the Public Charter School Commission to replace the Charter School Review Panel and the Charter School Administrative Office
- Opportunities for multiple authorizers
- Requirements that authorizers to negotiate sound charter contracts according to guidelines in the law
- Changes in the composition of Local School Boards that significantly reduces conflicts of interest and nepotism
- Strengthening monitoring and accountability by authorizers
- Provisions for the establishment of minimum educational data reporting procedures that will be transmitted digitally
- Provisions for input from national charter school organizations to identify and contract a Transition Coordinator to provide leadership in the transition of the Charter School Review Panel and the Charter School Administrative Office into the Public Charter School Commission

I have grave misgivings about putting the BOE back in charge of the charter school system. While it might seem logical for the authorizers to be accountable by the Hawaii BOE, the board did not hold charter schools accountable when it was the state's sole authorizer and, in fact, did not even acknowledge the receipt of the yearly self-evaluations from the charter schools as required by law. Who will hold the BOE accountable and how?

The Public Charter School Commission is a vast improvement over the CSRP but I am concerned that all of the members will come from Oahu because there is insufficient provisions in the law to assure geographic equity. Currently, 15 of the charter schools, nearly half of all charter schools, are on the Big Island but the Big Island never had proportional representation on the CSRP.

Another area of concern is the unclear conversion charter school requirement of "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" which has created problems in the past. One group interpreted the requirement to mean that each individual group must demonstrate that a majority supports the conversion. However, in small schools, there may only be one administrator which would mean that unless the administrator

supported the conversion, the school could not meet the requirement in the law. Clarification of the process is essential.

Finally, I ask you continue to work to boost charter school per pupil funding so it is rational, fair and equitable, provides more than just the current token "facilities" funding support, and allow charters to receive Special Purpose Revenue Bonds under SB2598.

Thank you for your support.

From: Terry J Walker [terryjwalker@hawaiiantel.net]
Sent: Tuesday, March 13, 2012 12:50 PM
To: EDNtestimony
Subject: SB2115

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

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 1:06 PM
To: EDNtestimony
Cc: elizabeth_kraft@notes.k12.hi.us
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elizabeth Kraft
Organization: Individual
E-mail: elizabeth_kraft@notes.k12.hi.us
Submitted on: 3/13/2012

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.

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 1:16 PM
To: EDNtestimony
Cc: hunybabe@yahoo.com
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Oppose
Testifier will be present: No
Submitted by: Beth Gall
Organization: Individual
E-mail: hunybabe@yahoo.com
Submitted on: 3/13/2012

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.

Marta Campbell

I am in opposition to SB2115 because it does not address the real problems in charter schools and namely, equitable funding and facilities funding.

I have two children, one in a charter and the other in a DOE school. It is unjustifiable that one school gets more money than the other for my children. I claim them the same on my tax return, and there is no other government agency using differentiation, discrimination against either one of my children. How is this unfairness against my younger daughter, who is in the charter school, allowed through our school system?

- 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 Pahoā, 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 meaningless.**

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 14, 2012 9:30 AM
To: EDNtestimony
Cc: hibr@aol.com
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM
Attachments: HBR Testimony SB 2115 SD2 & SB2116 SD2 2-2012.pdf

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Support
Testifier will be present: No
Submitted by: Gary K. Kai
Organization: Individual
E-mail: hibr@aol.com
Submitted on: 3/14/2012

Comments:

Susan Kay Anderson
P.O. Box 1055
Keaau, Hawaii 96749
(808) 965-7212

March 13, 2012

Dear Hawaii State Legislature,

As a parent of a current student at Hawaii Academy of Arts Public Charter School, and a teacher for Hawaii Public Schools since 1995, I am urging you to fully fund Hawaii's Charter Schools.

- 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 Pahoa, 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.

Sincerely,

Susan Kay Anderson

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 3:44 PM
To: EDNtestimony
Cc: loriboth@hawaii.edu
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM
Attachments: I am opposed to this bill primarily because it does not allocate funds equally per child to charter schools as it does to DOE schools.docx

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lori Bothwell
Organization: Individual
E-mail: loriboth@hawaii.edu
Submitted on: 3/13/2012

Comments:

I am opposed to this bill primarily because it does not allocate funds equally per child to charter schools as it does to DOE schools, also because it takes administrative power away from charter schools.

Nicole Albright
200 Kanoelehua Ave, # 305
Hilo, HI 96720

TESTIMONY IN OPPOSITION TO SB 2115

COMMITTEE ON EDUCATION

Rep. Roy M. Takumi, Chair
Rep. Della Au Belatti, Vice Chair

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

Wednesday, March 14, 2012
2:10 p.m.
Conference Room 309

Honorable Representatives Takumi, Belatti, Rhoads, Yamashita, and Committee Members

I understand that the intention of this bill is to dissolve the CSAO and put charter schools under the governance of the DOE. This measure is contrary to the intention of charter schools in the first place. Educational reform is difficult enough without stifling it in its infancy. Hawaii's children deserve better than their current educational options.

This bill takes more money away from students who already get HALF of what DOE students receive.

I am a Small Business Owner and would not send my child to a DOE School in the Puna District. I am a parent of a student who is now attending Hawaii Academy of Arts and Sciences. My child is getting the education he deserves. Please do not take more funding away from our under-funded Charter Schools.

Thank you for the opportunity to testify in this Matter.
Nicole Albright

belatti2 - Kate

From: Marion Buscher [gemabuscher@yahoo.com]
Sent: Tuesday, March 13, 2012 9:06 PM
To: EDNtestimony
Subject: Senate Bill 2115

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 Pahoa, 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.**

When a program is working for our children, why it that government chooses to shut it down? Equal funding for each student regardless of race, religion, or economics.

Marion Buscher
P. O. Box 256
Kurtistown, HI
96760

belatti2 - Kate

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 9:09 PM
To: EDNtestimony
Cc: danielthea@hotmail.com
Subject: Testimony for SB2115 on 3/14/2012 2:10:00 PM

Testimony for EDN/LAB 3/14/2012 2:10:00 PM SB2115

Conference room: 309
Testifier position: Oppose
Testifier will be present: No
Submitted by: daniel shapiro
Organization: Individual
E-mail: danielthea@hotmail.com
Submitted on: 3/13/2012

Comments:

This bill does not solve the main problem impacting charter school success--equitable funding with DOE schools. Charter school funding has been cut by over 30% in the past few years, despite continued growth in enrollment. Both of my children attend a charter school. Please don't change how they are allowed to govern themselves. They are doing a much better job than our local DOE school--in both student/parent satisfaction and test scores!! This bill is not the answer to charter school woes--please support a bill to provide equitable funding that includes money for facilities.

belatti2 - Kate

From: ESTHER KOTTKE [rekhilo@hawaiiantel.net]
Sent: Tuesday, March 13, 2012 9:01 PM
To: EDNtestimony
Subject: Opposition to SB2115

This bill is an obvious affront to the idea of charter schools as major education forums and innovative movements to improve public schools for segments of the society yearning for improvements in the delivery of education to elementary and secondary school students. Charter schools have been hailed at the highest levels in government and education circles throughout the United States, so passing legislation that limits the application of this approach is like reversing progress to go forward. It is apparent that the promises of the recent pass are being forfeited for some kind of financial finessing by cutting further funds for charter schools and limiting our governance and faculty input when teacher and staff contributions to curriculum and operations aid the facilitation of this individualized method of educating our youth. Charter school should receive the same funding as the other DOE schools and progressive stakeholder boards should be reinforced rather than curtailed. During the recent past we were told by executive and legislative candidates that they supported reinforcing charter schools, and now that these same people are elected officials we are slapped in the face with attempts to deprive the parents and children of this new innovative approach to include individualized Aloha into the twenty-first century with such deceptive proposals. Please think this through and provide us with help and guidance - not further cuts and limitations.

Aloha and Pura Vida
Ray Kottke, Teacher
Hawaii Academy of Arts and Science

R. Winston Albright, Esquire
200 Kanoelehua Ave, # 305
Hilo, HI 96720

TESTIMONY IN OPPOSITION TO SB 2115

COMMITTEE ON EDUCATION

Rep. Roy M. Takumi, Chair
Rep. Della Au Belatti, Vice Chair

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair
Rep. Kyle T. Yamashita, Vice Chair

Wednesday, March 14, 2012
2:10 p.m.
Conference Room 309

Honorable Representatives Takumi, Belatti, Rhoads, Yamashita, and Committee Members

I understand that the intention of this bill is to dissolve the CSAO and put charter schools under the governance of the DOE. This measure is contrary to the intention of charter schools in the first place. Educational reform is difficult enough without stifling it in its infancy. Hawaii's children deserve better than their current educational options.

I am a DOE employee, and County of Hawaii Employee and would not send my child to a DOE School in the Puna District. I am a parent of a student who is now attending Hawaii Academy of Arts and Sciences. My child is getting the education he deserves. Please do not take more funding away from our under-funded Charter Schools.

Thank you for the opportunity to testify in this Matter.
R. Winston Albright, Esquire

From: Dawn Hawkins [cerbopoli@gmail.com]
Sent: Tuesday, March 13, 2012 8:13 PM
To: EDNtestimony
Subject: Opposed to Bill SB2115

Aloha,

I am writing this email to let you know that I am in opposition of SB2115 beaus it does not address the real problems in charter schools, equitable funding and facilities funding.

The reasons that I am opposed to this bill are outlined below:

- 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 Pahoā, 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.**



Dawn Hawkins Ed.D.

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Testimony to the House Committee on Education & Committee on Labor & Public Employment
SB2115 SD2 (SSCR2760) - Relating to Charter Schools
March 14, 2012,
2:10 PM in Conference Rm. 309
Submitted by Ruth Tschumy, member Charter School Task Force and former member of the Charter School Review Panel

Testimony in support with some concerns

Chair Takumi, Vice Chair Au Belatti and Members of the Committee
Chair Rhoads, Vice Chair Yamashita and Members of the Committee

Lately, the public's perception of Hawaii's charter schools has been diminished by the actions of a few schools. We owe it to the charter schools providing excellent education and using state funds wisely and effectively in pursuit of their educational goals to enact SB2115 SD2. This bill will establish "clear lines of authority and accountability" and strengthen Hawaii's charter school system.

I ask the committees to please consider the following changes:

- * Add to § -3 (b) "The mission of the commission shall be to authorize high-quality public charter schools and ensure its schools meet high standards of transparency, accountability and integrity.
- * Add to § -3 (c) Consider specifying that a charter school teacher serve on the commission to ensure the educational needs of children will be fully represented.
- * Add to § -3 (c) Consider making the board's appointments of commission members subject to confirmation by the legislature.
- * Add to § -5 (5) "monitoring, in accordance with charter terms, the performance and legal compliance of public charter schools and taking appropriate action as needed"
- * Add to § -12 (2) possess strong financial management, academic knowledge and oversight ...
- * Delete § -12 (3)(c) "and the independent authority to determine ... compliance with applicable federal and state laws"
- * Add to § -12 (3) (c) The governing board shall ensure its school complies with the terms of the contract between the commission/authorizer and the school/governing board.
- * Consider specifying that a teacher serve on the governing board to ensure that the educational needs of children will be fully represented.
- * Consider deleting § -12 (3) (e) that exempts governing boards from the requirements of Chapter 91 and 92. Placing governing boards under "sunshine" would ensure greater accessibility for parents into the operations of the governing board and the education of their children.
- * Change § -14 to reflect the following: There are two types of non-profits that may convert a school: those that provide the 1 to 4 monetary match (such as Ho`okako`o) and those that don't (such as the non-profit that converted Laupahoehoe). (e) (1) applies to the kind of non-profit that provides the monetary match. For non-profits that don't provide the match, the governing board should be selected pursuant to section § -12.

* Change § -22 “The board shall serve as the final arbitrator of any dispute” to “the board shall serve as the final arbitrator of only those appeals listed in § -15.” If this section isn’t changed, there will be endless “litigation” consuming the board’s and the commission’s/authorizer’s time and energies, and the authority of the commission will be compromised.

Mahalo.