



HAWAII  
STATE  
ETHICS  
COMMISSION

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

**LATE**

April 2, 2013

The Honorable Sylvia Luke, Chair  
The Honorable Scott Y. Nishimoto, Vice Chair  
The Honorable Aaron Ling Johanson, Vice Chair  
Honorable Members  
House Committee on Finance  
Hawaii State Capitol, Room 306  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 244, S.D. 2, H.D. 1, Relating to Education**

Hearing: Tuesday, April 2, 2013, 2:00 p.m.  
State Capitol, Conference Room 308

Written Testimony From: Hawaii State Ethics Commission

Thank you for considering the Hawaii State Ethics Commission's testimony on Senate Bill No. 244, S.D. 2, H.D. 1, Relating to Education. The Commission's comments relate to the bill's proposed amendment to HRS section 302D-12(h), relating to the definition of the term "employee." The Commission strongly supports broadening the definition of charter school "employee" in section 302D-12(h) to include "any person under an employment contract to act as the chief executive officer, chief administrative officer, executive director, or designated head of a charter school," as proposed in SB No. 244, S.D. 2, H.D. 1.<sup>1</sup> The Commission takes no position with respect to the bill's changes to the governance structure for Hawaii's charter schools.

Charter school employees, currently, are subject to and must comply with the standards of conduct established in the State Ethics Code. However, employees of a private entity, including a business contracted by a charter school to provide leadership or managerial-type services for the school, are not "employees" as defined by the State Ethics Code and therefore are not required to comply with the State Ethics Code. That means, for example, someone who is employed by the charter school as its head of school must comply with the conflicts of interest provision, cannot accept certain types of gifts, and is prohibited from misusing his position to give himself or others an unwarranted benefit or advantage. If that same person was employed by a private business under contract with the charter school to provide those services to the school,

<sup>1</sup> See page 19, line 21, through Page 20, line 5.

The Honorable Sylvia Luke, Chair  
The Honorable Scott Y. Nishimoto, Vice Chair  
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Honorable Members of the House Committee on Finance  
April 2, 2013  
Page 2

because the State Ethics Code does not apply to him, he could, for instance, accept lavish gifts from competing vendors and suppliers given to influence or reward his procurement decisions, take action with respect to matters that may financially benefit himself, and misuse his position to give others, including his friends and family, special treatment and unfair advantages.

The Commission does not believe that the head of a public agency, such as a charter school, funded primarily through public monies, should be exempt or otherwise not subject to the standards of conduct that the legislature deemed necessary to foster public confidence in state government. For that reason, the Commission strongly supports the amendment to section 302D-12(h) to include contracted employees in certain managerial positions within the definition of “employee” for purposes of section 302D-12.

The Commission further supports the bill’s amendment of HRS section 84-3 to include within the State Ethics Code’s definition of the term employee, “any person under an employment contract to serve as the chief executive officer, chief administrative officer, executive director, or designated head of a charter school.” By this amendment, such persons will be subject to the jurisdiction of the State Ethics Commission.

Lastly, the Commission notes that the disqualification provision in the portion of the bill amending section 302D-3(j) is more stringent than the State Ethics Code, specifically section 84-14(a). The bill requires members of the Public Charter School Commission, if they are an employee, governing board member, vendor, contractor, agent, or representative of a charter school, to disqualify themselves from voting on or participating in matters involving their interests.<sup>2</sup>

Under the State Ethics Code, an employee cannot take official action directly affecting a business or other undertaking in which he has a substantial financial interest. In interpreting this provision, the Commission has construed the term “business or other undertaking” to be limited to private interests and not to include other governmental agencies. For that reason, generally, a state employee who serves on a state board or holds another state position is not prohibited from taking action that may directly affect his other state agency. Hence, the State Ethics Code would not prohibit a Charter School Commission member, who is employed by a public charter school or serves on a governing board, from taking official action affecting the charter school.

The Commission appreciates your consideration of its testimony relating to S.B. No. 244, S.D. 2, H.D. 1.

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<sup>2</sup> See, SB No. 244, SD 2, HD 1, page 13, line 21, through page 14, line 8.

NEIL ABERCROMBIE  
GOVERNOR



KAREN STREET  
CHAIRPERSON

**LATE**

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

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FOR: SB 244 SD2 HD1 Relating to Education  
DATE: Tuesday, April 2, 2013  
TIME: 2:00 p.m.  
COMMITTEE(S): House Committee on Finance  
ROOM: Conference Room 308  
FROM: Tom Hutton, Executive Director  
State Public Charter School Commission

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### **Testimony in support of SB 244 SD2 HD1**

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the Committee:

The State Public Charter School Commission is pleased to submit this testimony in support of Senate Bill 244, Senate Draft 2, House Draft 1. Like companion measure HB 674 reported out by this committee, SB 244 amends the new HRS Chapter 302D to continue the work of Act 130 of last year to improve Hawaii's chartering system. The Commission is hard at work implementing the changes set forth in Act 130 and currently is poised to execute performance contracts with all of the charter schools that are designed to ensure their financial, academic, and organizational accountability.

The Commission appreciates SB 244's acknowledgement of the need for facilities funding for charter schools and is hopeful that some progress can be made during this session on meeting this longstanding and critical challenge. While the stronger charter school accountability system mandated by Act 130 is necessary and to be applauded, charter schools legitimately point out that they now will be held to higher expectations while most of them still must draw significantly from their operating funds simply in order to meet their basic facilities requirements.

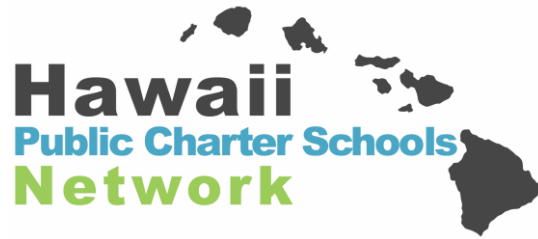
We would also respectfully note that effective implementation of Act 130 is premised on the Commission's staff being able to fulfill the significant additional responsibilities contemplated by the Act while continuing to fulfill the existing responsibilities currently performed by the Charter School Support Office (CSAO), which will sunset at the end of the fiscal year. Despite these additional duties, the staffing and budget levels requested by the Commission and

reflected in the Governor's budget were basically the same as those pre-Act 130, but even these are halved in the House Draft of the budget. We are hopeful that the positions will be restored in the Conference Draft and will gladly provide this Committee whatever information may be helpful to its decision.

The Commission believes that by enacting Act 130 and by further improving it with this legislation, Hawaii is well positioned to strengthen its charter school system.

Thank you for the opportunity to provide this testimony.

**LATE**



Hawaii State House of Representatives  
Committee on Finance

DATE: Tuesday, April 2, 2013

TIME: 2:00 p.m.

PLACE: Conference Room 309, Hawaii State Capitol

Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson and Members of the Finance Committee,

Re: SB244 SD2 HD1 – Testimony in Support

Hawaii Public Charter Schools Network (HPCSN) is committed to quality education for all public school students in Hawaii through our work with Hawaii’s public charter schools. HPCSN in partnership with our member schools, Commission, CSAO, BOE and NACSA, have been hard at work implementing Act 130 of the 2012 legislative session. This has been no easy feat, but certainly an opportunity to put into place fair and consistent “rules of the game” for oversight, monitoring and governance.

SB244 SD2 HD1 has addressed our previous concerns.

### **Facilities Support**

**HPCSN strongly supports and appreciates the facilities support language that is included in this draft of the bill. Charter schools are under tremendous pressure to achieve more with less funding. We would also humbly request for facilities funding either in this bill or in the HB200.**

*Why support funding for charter school facilities?*

- Charter Schools are public schools and cannot charge tuition.
- It is the obligation of the State of Hawaii to provide facilities for public schools.

The Hawaii State Constitution, Article X states, "The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor."

- Most charter schools get \$0 for facilities support.

- Unlike schools that are provided facilities by the state, charter schools must use their per pupil funding to also pay for facilities. This often means less money to support their academic program.
- Charter school enrollment increased to nearly 10,000 students.
- Beginning 2013-14 there will be 33 charter schools in Hawaii.
- "Research shows the quality of school facilities can play an important role in determining student achievement," as stated in "Schools Getting Makeover to Support Race to the Top Initiative." Transforming Hawaii's Public Schools. Hawaii State Department of Education, Oct. 2011. Web. 20 Mar. 2013. <[http://hawaiidoereform.org/2011-10/ZSI\\_1011](http://hawaiidoereform.org/2011-10/ZSI_1011)>.
- The "Charter Schools Funding Task Force Report" to the 2011 Hawaii State Legislature and "On The Level? Policy, Law and the Charter School Movement," a report by the Legislative Reference Bureau in 2002, clearly stated that charter schools should receive facilities funding.

The Hawaii public charter sector is going through a major transition (Act 130 & 131 of the 2012 legislative session) and for the most part our schools are making every effort to engage and make this an opportunity for, instead of a detriment to, our charter schools. The progress with new contracts are underway and should be signed and completed before July 1, 2013. HPCSN applauds these efforts.

Act 130 sought to "fix" charter school governance, authority and responsibilities problems that existed in the old law. The success is dependent on funding of the Start Charter School Commission staff positions that were reduced in HB200 HD1. HPCSN requests your reconsideration of these cuts.

As we continue this tedious and time-consuming work, on behalf of charter schools, we appreciate the efforts that are being made to improve Hawaii's charter school law.

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



Lynn Finnegan  
Executive Director

**LATE**



**Kurna Warra Pintyandi**

Signatories: Dr Alitya Wallara Rigney

Dr Lewis Yerloburka O'Brien

C/- Dr Rob Amery

Linguistics, School of Humanities

The University of Adelaide,

SA 5005 AUSTRALIA

Tel: (08) 8313 3924

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e-mail: [rob.amery@adelaide.edu.au](mailto:rob.amery@adelaide.edu.au)

Representative Luke and members of the Hawaii State Legislature,

I am testifying in support of the inclusion of the Punana Leo sponsored amendments to SB 1093 relating to school readiness and SB 1095 relating to early childhood education.

I am Dr Robert M. Amery, Head of the Discipline of Linguistics at the University of Adelaide, South Australia and Convener of Kurna Warra Pintyanthi, the peak body for the reclamation and revival of the Miyurna (Kurna) language, indigenous to the Adelaide Plains. I know the Punana Leo and Hawaiian language college at UH-Hilo through my visit there in 2004, attending the Indigenous Language Documentation and Conservation Conference and maintaining an interest in the program through the literature. I am currently supervising a PhD student, Jasmin Morley, who is undertaking a study of language acquisition in revival contexts, drawing on Kurna, Hawai'ian and other languages. Jasmin has just spent the past month in Hawai'i including the Hawai'ian language college at UH-Hilo.

The amendments before you will be groundbreaking for Native American education in recognizing that a distinct pathway for teacher training, standards, and assessments are needed for early childhood education provided through endangered Native American languages.

Furthermore, the inclusion of a "safe harbor" in the form of participation in the laboratory school program of the state Hawaiian language college is crucial to allow good faith participation in current best practices relative to Native American language early education, while the distinctive pathways, teacher training programs, standards, and assessments are being developed.

Hawaii is indeed fortunate that it has an indigenous language college with a laboratory school system that has built early education and K-12 education through Hawaiian to the nationally recognized position that it currently occupies. The Punana Leo program is a well-designed language revitalization effort that has achieved outstanding results.

Our Miyurna (Kaurna) language program is working with far less resources, a much smaller community and a much more limited documentary base for the language (see Amery, 2000). Nonetheless, it has now reached the stage where a young Miyurna man, Jack Kanya Buckskin, is raising his daughter as a Miyurna (Kaurna) speaker. We look to places like Hawai'i for inspiration and direction.

Again, please include the Punana Leo amendments and continue to break ground in Native American language medium education that can be used to help our communities move forward with similar legislation and programming.

Sincerely,

Dr Robert M. Amery  
Head, Discipline of Linguistics  
School of Humanities  
University of Adelaide, South Australia 5005.  
Convener, Kaurna Warra Pintyanthi (KWP)  
c/- University of Adelaide





Hawaii State House of Representatives  
Committee on Finance  
April 1, 2013

**LATE**

Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson and Members of the Finance Committee,  
Mahalo for the opportunity to provide testimony regarding SB244 SD2 HD1 State Budget. This testimony is specifically in support and appreciation of the facilities support language that is included in this draft of the bill. We also request facilities funding either in this bill or in HB200.

The School for Examining Essential Questions of Sustainability is a newly authorized public charter school for grades six through twelve that will be located in the greater Honolulu area. We plan to open our doors to 6th and 7th graders in August 2013.

As a brand new school, we are faced with the nearly impossible financial challenge of finding a facility in Honolulu that we can afford to rent. In our first year we project an enrollment of sixty-five students in the 6<sup>th</sup> and 7<sup>th</sup> grades. This small number enables us to begin our school with just a few classes, and develop our systems, processes, and school culture before we grow to a larger school. The idea of starting with a few grades in the first year and then growing as the students age is consistent with best practices in charter schools across the country.

However, we are faced with a serious dilemma. Sixty-five students multiplied by the per-pupil allocation of approximately \$6100 gives us an operating budget of just over \$400,000. With those funds, we need to pay our five teachers—as a secondary school our students need access to Science and History in addition to English Language Arts and Mathematics, plus Arts. Our school administration will be run by a School Leader/Principal and a School Manager in our first year. As you can estimate, paying fair salaries for our employees uses up the bulk of our revenues provided by per-pupil allocation. We also need to purchase curricular materials, technology, infrastructure, and provide professional development for our teachers.

And then we must pay rent! The challenge of finding school-appropriate property at a price we can afford within Honolulu—the district for which we have written our charter, because it is where we saw the most need and interest in a secondary public school of choice—is nearly an impossible one. By full size, our school will reach approximately 350 students. Accordingly, by full size we will need on the order of 20,000 to 30,000 square feet to house our facility. There is no doubt—we cannot afford a facility of that size at this point, with our current budget. So we have been searching for a facility that could house us for 2-3 years while we grow from 65 students in the first year, to 120 in the second, to nearly 200 in the third.

This has still proven to be nearly an impossible task. At commercial real estate prices ranging from \$1.35 to \$2.00 per month and up per square foot, and seeking a facility that is approximately 10,000 square feet in which we could work for two or three years—this is **still** well outside our budget.

We are currently considering facilities that could house us simply for our first year, and then we will face moving next year. We would very much like to avoid the need to move every year of our school's operation as our school grows.

Unless we are able to find a rent-free facility, which we have not been able to do, we will need to do significant fundraising in order to cover our facilities costs regardless of the rent price. Any fundraising we do—and any extra time we spend searching for a facility year after year—is time that we spend away from working with students. Our school was authorized, through an incredibly rigorous process this year, based on our vision for a school that is based on best practices in education, as well as community need and interest. We want to spend as much time as possible making our school successful for our students, and we believe that our primary role as a school is to focus on what's happening **inside** the school, working with teachers, students and content.

Facilities support and funding from the legislature will enable us to do the work we set out to do, and that we were authorized to do. Please consider including a line item for facilities funding for charter schools in the state's budget.

Mahalo for your consideration.

Buffy Cushman-Patz  
SEEQS Founder and School Leader

**LATE**

**Lā Ho‘olohe Pila** (Hearing Date/Time): 04-02-2013 2:00p

**Lumi hālāwai** (Meeting Room): Conference Room 308 House Finance

**Kōmike** (Committee): Finance

**Pila** (Bill): SB244, SD2 HD1

**Kumu** (Purpose): RELATING EDUCATION

**Mana‘o** (Position): KĀKO‘O ME NĀ LOLI (SUPPORT WITH AMENDMENTS)

Aloha Chair, Representative Luke, Vice Chair Representative Nishimoto and members of the House Finance Committee,

My name is P. Kanoe Kanaka‘ole, I am a parent of a Nāwahīokalani‘ōpu‘u student and would like to offer my support of bill SB244, SD2 HD1 with amendments as follows:

1. a statement that the charter school law will not discriminate against any teachers, staff, students, or families for use of Hawaiian in their school.
2. a statement that “start up charter schools” taught through Hawaiian (established outside of standard DOE campuses) be given the same right to benefit from administrative and other support from non-profits as given to Hawaiian language immersion schools on standard DOE campuses.

The unique qualities of our status, as the only state in the union; which recognizes both the native Hawaiian and English language as official state languages, must be addressed in all facets of government, especially education.

Equity of opportunities and resources must be addressed especially in the areas of testing and teacher evaluation. Teachers, students and families who choose Hawaiian language immersion pathways should not have to endure threats from administration to conform to English language program standards that have no relevance to the standards in their unique medium of education.

Hawaiian language immersion schools will benefit greatly by your support of these amendments, and this is critical to the future of the state of Hawai‘i as a global leader in the area of indigenous perspective and way of life.

Mahalo nui loa for the opportunity to submit this testimony.

Na‘u me ke aloha ‘ōlelo,  
Na P. Kanoe Kanaka‘ole

## FINTestimony

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, April 01, 2013 7:05 PM  
**To:** FINTestimony  
**Cc:** klink@hawaii.edu  
**Subject:** \*Submitted testimony for SB244 on Apr 2, 2013 14:00PM\*

### **SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dania-Maria Klink	Individual	Support	No

### Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**FINTestimony**

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, April 01, 2013 3:28 PM  
**To:** FINTestimony  
**Cc:** annetano@hawaii.edu  
**Subject:** \*Submitted testimony for SB244 on Apr 2, 2013 14:00PM\*

**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Tanouye	Individual	Support	No

Comments:

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**LATE**

**SB244**

Submitted on: 4/2/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kekoa Harman	Individual	Support	No

Comments: I support the Nawahi Iki School suggested amendments to the Charter School Bill SB 244.

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**LATE**

**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dillon Keane Dominguez	Individual	Support	No

Comments: I support the Nāwahī Iki school suggested amendments to the Charter School Bill SB 244

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**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Micah Leialoha Kealaiki	Individual	Support	No

Comments: I support the Nāwahī Iki School suggested amendments to the Charter School Bill SB 244

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**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Ann Baricuatro	Individual	Support	No

Comments: I support this bill with 'Aha Punana Leo's amendments. Mahalo

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**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chad Kālepa Baybayan	Individual	Support	No

Comments: I urge that charter schools taught through Hawaiian be protected from discrimination based on their use of Hawaiian and that provisions to allow DOE immersion schools to choose to be administered by a non-profit, also be accorded to start up charter schools taught through Hawaiian. Your work in education through the Hawaiian language is a matter of importance and concern to the broader world. The world crisis on disappearing languages urgently need government assistance for their survival. We need to support the hard work put forth to keep the Hawaiian language alive. Thank you

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**LATE**

**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Hiapo K. Perreira	Individual	Support	No

Comments: I SUPPORT the NĀWAHĪ IKI SCHOOL suggested amendments to the Charter School Bill SB 244.

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**SB244**

Submitted on: 4/1/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
donnette leilani kaponu	Individual	Support	No

Comments: I support the Nāwahī Iki School suggested amendments to the Charter School Bill SB 244

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**SB244**

Submitted on: 4/2/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Daniel McLaughlin	Diné College, tribal college of the Navajo Nation	Support	No

Comments: I support the Nāwahī Iki School suggested amendments to the Charter School Bill SB 244.

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**SB244**

Submitted on: 4/2/2013

Testimony for FIN on Apr 2, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
April Housman	Hale Kuamoo Hawaiian Language Center	Support	No

Comments: I support the Nāwahī Iki School suggested amendments to the Charter School Bill SB244.

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