



WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2576, H.D. 1, S.D. 1

March 28, 2014

RELATING TO EDUCATION

House Bill No. 2576, H.D. 1, S.D. 1, establishes a Hawaii Charter School Facility Development Special Fund into which shall be deposited contributions from Hawaii taxpayers for the development of charter school facilities. In exchange for these contributions, Hawaii taxpayers will receive an unspecified tax credit. The bill also includes an unspecified general fund appropriation for fiscal year 2014-2015 and a similar unspecified Hawaii Charter School Facility Development Special Fund appropriation for fiscal year 2014-2015.

While the Department of Budget and Finance does not take any position on the policy of the Hawaii Public Charter School Facility Development program, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. There are specific concerns with this approach as it relates to the special fund structure and the availability of a tax credit. Special funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2576, H.D. 1, S.D. 1, it is difficult to determine whether the special fund will be self-sustaining in consideration of the potential costs of public

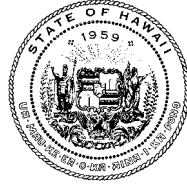
charter school facility development and the unknown amount of funding to be derived from taxpayer contributions. This would be particularly problematic if the proceeds from the special fund were to fund long-term capital projects requiring debt.

This bill also requires the State Public Charter School Commission (Commission) to keep an accounting of all taxpayer contributions and issue a certificate to taxpayers who participate in this program in order to claim their tax credit. The bill does not provide any funding for this requirement and it is unknown at this time the Commission's resource requirements to implement this accounting system related to the proposed Hawaii Charter School Facility Development Special Fund.

The tax credit established in this bill will result in an unknown loss of general fund tax revenues. The Department of Taxation could not provide any tax loss estimates as its unknown how many taxpayers will contribute towards the proposed Hawaii Charter School Facility Development Special Fund. The Department has considered the recent Council on Revenues' (COR) forecast that projects flat revenue growth in the current fiscal year and significantly reduces the rate of growth of tax revenues to the general fund over the next 5 fiscal years. In this respect, the Department would advise against House Bill No. 2576, H.D. 1, S.D. 1. The State should support investment into education - whether private, public, conventional or chartered. However, the COR has already identified increased in general fund revenues have peaked and, therefore, coupled with the COR forecast of declining overall tax revenues, increases beyond current funding levels here will compromise the funding availability for other public services and programs.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Friday, March 28, 2014
Time: 9:35 a.m.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2576, H.D. 1, S.D. 1, Relating to Education

The Department of Taxation (Department) appreciates the intent of H.B. 2576, H.D. 1, S.D. 1, to support our State's educational system and presents the following comments for the Committee's consideration.

H.B. 2576, H.D. 1, S.D. 1, creates a charter school special fund and also creates a nonrefundable income tax credit for contributions of money or in-kind services for the development of charter school facilities. The tax credit portion of this measure, if approved, applies to taxable years beginning after December 31, 2013. S.D. 1 has a defective effective date of July 1, 2050.

The Department notes that contributions of money or in-kind services for the development of school facilities are already likely eligible under the charitable deduction provisions. This tax credit would be incentivizing activities that are already incentivized by the tax system.

In other words, this bill may provide double tax benefits for the same donation; a taxpayer would be able to first reduce their taxable income with a deduction, and then offset their tax liability owed to the State with a credit. In addition, the Department notes that retroactive application of the credit will not serve to incentivize the contributions contemplated by this measure.

Furthermore, the Department requests that this bill be amended to apply to taxable years beginning no earlier than January 1, 2015. The Department needs sufficient time to make the necessary changes to the tax forms and instructions.

Thank you for the opportunity to provide comments.

NEIL ABERCROMBIE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: 586-3775 Fax: 586-3776

FOR: HB2576 HD1 SD1 Relating to Education
DATE: Friday, March 28, 2014
TIME: 9:15 a.m.
COMMITTEE(S): Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

Chair Tokuda, Vice Chair Kidani, and members of the Committee:

The State Public Charter School Commission is pleased to submit this testimony in support of this measure to establish a charter school facilities fund and a state income tax credit for taxpayers who make contributions to the development of charter school facilities, and authorize the use of funds not only to fund projects but also to secure loans from private lending institutions for financially stable charter schools.

The need to address facilities costs is arguably the single greatest unaddressed challenge for Hawaii’s chartering system. Currently, start-up charter schools must pay for the costs of their facilities from out of their already stretched operational funds.

The Commission currently is implementing a Facilities Pilot Program for the awarding of funds to charter schools for relatively small-scale facilities projects and has allocated approximately \$680,000 of federal Impact Aid funds to this program from out of a temporary but sizable increase in such funds for the current fiscal year. Funds for the pilot program are planned for distribution around the beginning of the 2014 academic year.

Despite some controversy, the Commission has seized this opportunity to move ahead with the initiative, in order to demonstrate that a program of investing in charter school facilities will

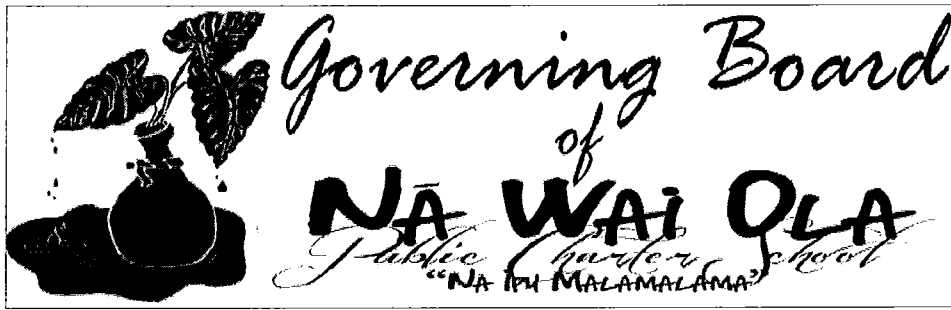
prove a sound investment for the public, and to allow the system to work through any legal and practical issues before any additional state funds are invested.

This measure would build upon the momentum, and benefit from the experienced gained by, the Commission's pilot program. In this sense it complements two measures previously reported out by this Committee. SB 2516 SD2, Relating to Facilities Funding for Charter Schools, would simply make a general fund appropriation for charter school facilities needs, based in part on charter school need and performance. SB 2517 SD2, Relating to Charter Schools, would authorize the Commission to request the issuance of general obligation bonds from the Director of Finance and establish a charter school facilities funding working group, including the Director of Finance and the Chairs of the Senate Committee on Ways and Means and the House Committee on Finance, to determine criteria for and to prioritize the allocation of fund to the schools. We believe all of these proposals, which result from discussions of the informal interagency working group on charter school funding convened by Education Committee Chair Jill Tokuda after the 2013 legislative session, merit the Legislature's continued consideration.

The Commission requests that this measure be advanced for discussion purposes. We note that the bill has been amended in an attempt to address the concern raised by some testifiers about "double-dipping" where a tax credit is created for an already tax deductible donation. We hope that this revision will fully address that particular concern, not only as to credit for in-kind contributions but also as to monetary contributions.

The Commission acknowledges that both the revised projections by the Council on Revenues and the Office of the Auditor's review of the special fund proposed in this bill complicate the prospects for this and other proposals. Nevertheless, we remain hopeful that among the various proposals currently in motion in the Legislature a way can finally be found to make a start in addressing this longstanding problem.

Thank you for the opportunity to provide this testimony.



TESTIMONY IN SUPPORT OF SENATE BILL 2576 HD1 SD1

A BILL FOR AN ACT RELATING TO EDUCATION

COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair

Senator Michelle N. Kidani, Vice Chair

Friday, March 28, 2014, 9:35 AM
State Capitol, Conference Room 211

Honorable Chair Ige, Vice Chair Kidani, and Members of the Committee on Ways and Means, Maurice C. Messina, Na Wai Ola Public Charter School (PCS) Governing Board Chair submits the following testimony in support of House Bill No. 2576 HD1 SD1.

The purpose of this measure is to establish a special fund for the development of Charter School facilities; establish an income tax credit for taxpayers who make contributions to the development of Charter School facilities; and appropriate funds for the Hawai'i Charter School Facility Development Special Fund

With the passage of this legislation, you will directly impact the safety and wellbeing of the students, teachers and staff of our school. This bill addresses a unique and creative opportunity to provide much needed help to Hawai'i's Charter Schools by recognizing the need to correct the decades old problem of no facilities funding for Start-up Charter Schools. It is well past the time to correct this serious deficiency and show the people of Hawai'i that children in Charter Schools are a priority to law makers.

The need to address facilities costs is arguably the single greatest unaddressed challenge for Hawaii's Charter Schools - Na Wai Ola PCS is no exception. Our school is classified as a "Recognition School" and the only Charter School in the state to be ranked in this first tier; however, our students and staff must endure daily hardships that are directly tied to a lack of facilities funding.

The costs of facilities construction, rental, maintenance and repair directly impacts and limits the funds Charter Schools can access for student education. With instructional budgets already seriously under resourced, every dollar spent on facilities are taken directly from our funding for classrooms. Charter Schools currently receive less funding than their DOE counterparts and are left to their own devices to raise additional capital to make up the difference.

For these reasons, I STRONGLY SUPPORT the passage of House Bill No. 2576 HD1 SD1. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in cursive script that reads "Maurice C. Messina". The signature is written in black ink and is positioned above the printed name.

Maurice C. Messina
Chair, Na Wai Ola PCS Governing Board

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126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Charter school facility development tax credit

BILL NUMBER: HB 2576, SD-1

INTRODUCED BY: Senate Committee on Education

EXECUTIVE SUMMARY: Establishes an income tax credit of ___% of the value of contributions of in-kind goods and services and money to the newly proposed Hawaii charter school facility development special fund. First, this measure could give taxpayers a double benefit because contributions to schools may already be tax deductible. Second, this measure would also establish another special fund, where the problem with special funds in general is that lawmakers tend to lose oversight over how the moneys are being used and the moneys would be tied up and would not be available for many other pressing needs of the state.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a credit for contributions of money or in-kind services for the development of charter school facilities. The credit shall be equal to ___% of the value of contributions of in-kind goods and services to the Hawaii charter school development special fund; provided such contributions of in-kind services claimed by a taxpayer do not exceed \$_____ for a taxable year.

Credits in excess of a taxpayer's income tax liability may be used against the taxpayer's income tax liability until exhausted. Delineates recordkeeping, verification, and certification requirements of the state public charter school commission. When the total amount of certified contributions reaches \$_____, the state public charter school commission shall discontinue certifying contributions and notify the department of taxation. Stipulates that the amount of total certified contributions shall not exceed \$_____ for each taxable year.

Adds a new section to HRS chapter 302D to establish the Hawaii charter school facility development special fund which shall be used for: (1) the acquisition, planning, design, improvement, construction, equipping, furnishing, administering, operating, and maintaining of charter school facilities; or (2) pledged by the state public charter school commission to secure loans from private lending institutions for financially stable charter schools.

Also appropriates \$_____ in general funds for fiscal 2015 to be deposited into the Hawaii charter school facility development special fund. Also appropriates \$_____ out of the Hawaii charter school facility development special fund for fiscal 2015 to support the development of charter school facilities. The appropriations shall take effect on July 1, 2014.

EFFECTIVE DATE: July 1, 2050; applicable to tax years beginning after December 31, 2014

STAFF COMMENTS: This measure establishes an income tax credit to encourage taxpayers to make contributions of money or in-kind services to the Hawaii charter school facility special development fund. However, the tax system is a poor means of achieving such social goals. Providing such credits against state taxes merely reduces state revenues which may necessitate a shift in the tax burden to other taxpayers who are not able to claim the credit.

It should also be noted that taxpayers making contributions to a government program or those that may be nonprofit educational organizations (IRC 501(c)(3)), i.e., a charter school, can take the full amount of their contribution as a deduction as compared to this measure which only allows a percentage of the taxpayer's contribution. It is questionable why this measure is necessary.

The proposed measure would establish another special fund. The problem with special funds is that once the money is deposited to the special fund, lawmakers tend to lose oversight over how the moneys are being used. Moneys in a special fund would be tied up and would not be available for many other pressing needs of the state. Such moneys in a special fund would also circumvent the excess revenues and expenditure ceiling provisions in the Hawaii Constitution. This money, although sitting in the coffers of state government, is not counted as part of the general fund surplus and spending from the fund is not counted as general fund spending.

Digested 3/25/14

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: andiandlen@gmail.com
Subject: Submitted testimony for HB2576 on Mar 28, 2014 09:15AM
Date: Tuesday, March 25, 2014 3:54:58 PM

HB2576

Submitted on: 3/25/2014

Testimony for WAM on Mar 28, 2014 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Andi Pawasarat-Losalio	Individual	Support	No

Comments: Aloha, please support House Bill 2576 providing a taxpayer's credit for contributions made for the development of charter school facilities. My child attends WHEA charter school. Many days there is no reprieve from the heat and weather due to classes being held in tents. A building for her school would give her and other students, as well as teachers and staff, a resource for learning and working in a safer environment. A building would mean school can be open on a rainy day. A building would mean utilizing electric for science projects. A building would mean having flushing toilets instead of porta potties in the hot sun. Most people have tasks/jobs to complete each day, be it at employment, or volunteering, or other productive activities. Our children's job is to go school, and learn. Our teacher's job is to educate. If you are not in construction, or farming, and such, can you imagine going to your job each day and using a porta potty in the hot sun? Or, not having a building to complete work in? And then, in these conditions could you be expected to get your work done successfully? We expect our children and teachers in Hawai'i to study, be rigorous learners, and highly qualified educators yet we have not provided a core tool to make that happen for all of them because we left out providing buildings for working and learning for the charter school children, and educators. This bill provides a basic safety resource that all children and educators in our state, country and world need, a roof over their heads. This bill will provide the much needed financial resources for building funds for charter schools without burdening taxpayers, and the state. Supporting this bill shows our concern for our children, their education, and for those who work hard to educate them. Please support HB2576. Mahalo

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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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: wheapcs@gmail.com
Subject: Submitted testimony for HB2576 on Mar 28, 2014 09:15AM
Date: Tuesday, March 25, 2014 1:11:33 PM

HB2576

Submitted on: 3/25/2014

Testimony for WAM on Mar 28, 2014 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Curtis Muraoka	Individual	Support	No

Comments: Chair Ige, Vice-Chair Kidani, and Esteemed Members of the Committee: As you well know, facilities support has been the greatest challenge for start-up public charter schools like West Hawaii Explorations Academy. Despite many years as a consistently high-performing program, WHEA has operated on the thinnest of margins, parlaying \$300,000 of CIP provided per-charter, to educate over 2,500 students (that's \$120 per student) at one of the most innovative and far-reaching public school programs in the country. WHEA's Project-based Learning model puts forward over 30 student-driven projects every year. WHEA largest project, Aloha Kai, hosts over 1,500 visiting school children every year, primarily from Oahu DOE schools visiting the Big Island. Since 1994, Aloha Kai has served an estimated 27,000 visitors. As you consider supporting your charter schools, please understand that the various CS funding bills before you fulfill varying niches of need. Neither one by itself is a panacea, but together they potentially address the majority of school situations. Please know that schools like WHEA are both needing and deserving of "Three Scoops of Aloha" in facilities funding. Please pass HB2576, and continue to support SB2516 and SB2517. Mahalo Nui Loa for your consideration.

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From: [Kiera Horgan](#)
To: [WAM Testimony](#)
Subject: *****SPAM***** Support for HB2576
Date: Tuesday, March 25, 2014 2:42:23 PM

Please support HB2576. Together with SB2516 and SB2517 it will help charter schools fund their facilities. My child attends West Hawaii Explorations Academy (WHEA), a truly remarkable and innovative school. The faculty, administrators, and students all deserve better facilities in which to work. They deserve adequate shade and quiet spaces, enough indoor spaces to protect scientific equipment, proper bathrooms in place of luas, and tables and chairs in place of bleachers for lunchtime. Just imagine how much more they will be able to achieve when they can spend their time on teaching and learning rather than fundraising.

Thank you for supporting properly funded education for all the public school children in our state.

With aloha,
Kiera Horgan

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: nhhdebbie@hotmail.com
Subject: Submitted testimony for HB2576 on Mar 28, 2014 09:15AM
Date: Tuesday, March 25, 2014 7:27:19 PM

HB2576

Submitted on: 3/25/2014

Testimony for WAM on Mar 28, 2014 09:15AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Debra Washburn	Individual	Support	No

Comments: My child greatly benefitted from the program at WHEA charter school. I don't think it's fair that they don't get the funding that we paid into Kealekehe high-people should have a choice when schools are failing-where the child's funding should be distributed

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From: [Kiera Horgan](#)
To: [WAM Testimony](#)
Subject: *****SPAM***** Support for HB2576
Date: Tuesday, March 25, 2014 2:42:23 PM

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Thank you for supporting properly funded education for all the public school children in our state.

With aloha,
Kiera Horgan

From: [Ray Echavez](#)
To: [WAM Testimony](#)
Subject: Support HB2576
Date: Wednesday, March 26, 2014 11:02:58 AM

Aloha,

My name is Lisa Echavez & my daughter, Brittany, attends West Hawaii Explorations Academy, which is a charter school. I totally believe that this school & others like it present an alternative to traditional classroom learning techniques. It allows an independent learner to become a self sufficient adult, letting them excel in school. My daughter has a 3.9 GPA & I am grateful to our teachers & staff. I support HB2576 & I think charter schools deserve help. Mahalo

Lisa Echavez, parent
Sent from my iPad