

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Roy M. Takumi, Chair
and Members of the House Committee on Education

Date: Monday, February 3, 2014
Time: 2:00 P.M.
Place: Conference Room 309, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2576, Relating to Education

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

H.B. 2576 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 Department notes that contributions of money or in-kind services for the development of school facilities are already likely subject to 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, then offset their tax liability owed to the State with a credit.

The Department recommends the deletion of subsection (g) in Section 1 of the bill; subsection (f) of the bill already calls for pre-certification of donations by the Department of Education, and requires that taxpayers claiming the credit submit the certificate of donation along with their claim. The goal of limiting the amount of credit allowed each year can be adequately met in subsection (f).

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

Thank you for the opportunity to provide comments.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON EDUCATION
ON
HOUSE BILL NO. 2576

February 3, 2014

RELATING TO EDUCATION

House Bill No. 2576 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; 3) demonstrate the capacity to be financially self-sustaining; and

4) why the program cannot be implemented successfully under the general fund appropriation process. In regards to House Bill No. 2576, 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 Department of Education (DOE) 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 its unknown at this time the DOE'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.

NEIL ABERCROMBIE
GOVERNOR



CATHERINE PAYNE
INTERIM 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: HB 2576, Relating to Education
DATE: Monday, February 03, 2014
TIME: 2:00 p.m.
COMMITTEE(S): House Committee on Education
ROOM: Conference Room 309
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

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

The State Public Charter School Commission is pleased to submit this testimony in strong support of this measure, which would establish a charter school facilities fund and establish a state income tax credit for taxpayers who make contributions to the development of charter school facilities.

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.

This initiative by the Commission has engendered considerable controversy among some of the charter schools, which are anxious about the adequacy of their operating funds, as well as concern that the precedent not be misperceived by the Legislature as a sign that the Commission somehow can address the facilities challenge using existing resources. Despite

these concerns, the Commission has seized this opportunity to move ahead with the initiative, in an attempt 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.

The Commission welcomes HB 2576 as one of several introduced this session that would build upon the momentum, and benefit from the experienced gained by, the pilot program. HB 2438, Relating to Facilities Funding for Charter Schools, which also is on today's agenda and which we address in separate testimony, would simply make a general fund appropriation for charter school facilities needs, based in part on charter school need and performance. A third bill, SB 2517, 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 merit this Committee's consideration.

The Commission expresses its appreciation for the introduction of HB 2576 by Representative Ken Ito, who participated in the discussions of an informal interagency working group convened by Senate Education Committee Chair Jill Tokuda after the 2013 legislative session to explore funding options for charter schools. This proposal also would expressly authorize the use of funds to secure loans from private lending institutions for financially stable charter schools, another idea the Commission believes holds promise.

We do note that this measure would assign to the Department of Education certain administrative responsibilities related to record-keeping, certification, and verification in connection with the proposed tax credit. While we have not yet had the opportunity to confer with the Department about this bill, in anticipation of the possibility that the Department may have some concerns about that aspect of the proposal, the Commission would be prepared to work with the Department on those functions and/or to assume these responsibilities itself if that were an acceptable alternative.

Thank you for the opportunity to provide this testimony.



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TESTIMONY BEFORE THE HOUSE COMMITTEE
ON EDUCATION

Wil Okabe
President
Joan Kamila Lewis
Vice President
Colleen Pasco
Secretary-Treasurer
Alvin Nagasako
Executive Director

DATE: MONDAY, FEBRUARY 3, 2014

RE: H.B. 2576 – RELATING TO EDUCATION

PERSON TESTIFYING: WIL OKABE
HAWAII STATE TEACHERS ASSOCIATION

The Honorable Chair Roy Takumi, The Honorable Vice-Chair Takashi Ohno and the Members of the Committee:

The Hawaii State Teachers Association (HSTA) strongly **supports HB 2576**, relating to Hawaii Charter School Facility Development Special Fund; Tax Credit; Appropriation.

HSTA is the exclusive representative of more than 13,500 public and charter school teachers statewide. As the state affiliate, of the 3.2 million members of the National Education Association, HSTA believes that there should be long range facilities plans for all schools and update state specifications. The plans and specifications should be reviewed and updated at least every two years with input from the school community.

HSTA also believes that students and teachers would benefit from adequate building or portable classrooms and fully furnish each classroom to accommodate the rapidly growing populations.

HSTA further believes the Legislature should appropriate sufficient funds to provide appropriate classrooms to alleviate the shortage in Hawaii's charter schools. That said, we believe that this bill addresses a unique and creative opportunity to establish a special fund for the development of charter school facilities. Via an income tax credit for taxpayers who make contributions to the development of charter school facilities while appropriating funds for the Hawaii charter school facility development special fund.

Thank you for the opportunity to testify in **strong support of HB 2576.**

TAXBILLSERVICE

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

INTRODUCED BY: Ito

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 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 department of education. When the total amount of certified contributions reaches \$_____, the department of education 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 and the state shall not provide more than \$_____ in tax credits for contributions of in-kind services.

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: Tax years beginning after December 31, 2013

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 development fund. However, the tax system is a poor means of achieving such social goals. Providing such credits against state tax 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, may take the contribution as a deduction. Thus, if a contributor itemizes deductions, he or she may be able to double-dip, namely take the deduction and the credit at the same time.

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 triggering of the excess revenues provision in the Hawaii Constitution because this money, although sitting in the coffers of state government, is not counted as part of the general fund surplus.

Digested 1/31/14

ohno2-Rexie

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 31, 2014 10:11 PM
To: EDNtestimony
Cc: sherrianwitt@aol.com
Subject: *Submitted testimony for HB2576 on Feb 3, 2014 14:00PM*

HB2576

Submitted on: 1/31/2014

Testimony for EDN on Feb 3, 2014 14:00PM in Conference Room 309

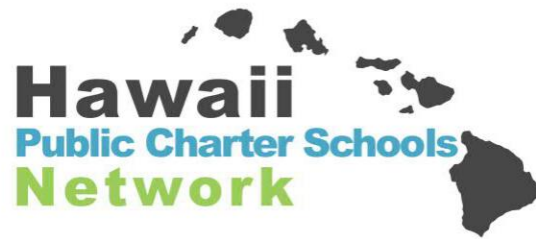
Submitted By	Organization	Testifier Position	Present at Hearing
sherrian witt	Individual	Support	No

Comments:

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LATE



Hawaii State House of Representatives
Committee on Education

DATE: Monday, February 3, 2014

TIME: 2:00 p.m.

PLACE: Conference Room 309, Hawaii State Capitol

Chair Takumi, Vice Chair Ohno, and members of the House Education Committee,

Re: HB2576 – Strong Support

Mahalo for the opportunity to testify on HB2576 Relating to Education. Hawaii Public Charter Schools Network (HPCSN) is committed to quality education for all public school students in Hawaii through our support of, and work with, Hawaii's public charter schools. The number one priority for HPCSN this legislative session is to help make significant progress to address the financial challenges, most especially with facilities, that exist for Hawaii's public charter schools.

Hawaii governors and state legislatures have stated the importance of facilities for public school students. Currently, there is no funding for facilities for start-up charter schools and this has been a decade old problem. In 2005 the Legislative Reference Bureau in its report entitled, *On the Level? Policy, Law and the Charter School Movement* stated, "Unlike their public school, conversion school, and school-within-school counterparts, start-up schools must rent or build facilities, or ask the public to donate facilities, or both. The cost of building public schools is usually spread out over twenty years through the issuance of general obligation bonds. Neither the BOE, the HIDOE, nor individual public schools are responsible for debt service—or the payment of principal and interest on these bonds. These bonds are the responsibility of the State, and are backed by it's the full faith and credit (i.e., taxing power)."

This bill is one part of a package of efforts to address funding and facilities support for charter schools. These issues are complex. Previously, stumbling blocks would be identified during discussions that would stop progress instead of work toward solutions. Now, the DOE, BOE, Dept. of Budget and Finance, State Public Charter School Commission and charter schools are willing to work on it through the efforts described in this package of bills. HB2576, together with SB2517, SB2518/HB1745 and SB2516/HB2438 will help to address a variety of funding/facilities challenges with an array of methods that use different and creative funding mechanisms. HPCSN strongly supports the following bills as they relate to funding and facilities support:

- SB2516/HB2438 is funded by general funds and has the flexibility to provide facilities funding to charter schools that are currently not on state land. This solution also moves from previous efforts to obtain per pupil facilities funding to all charter schools to a more nuanced process that considers charter school performance and need.
- SB2517 proposes to address a more consistent way to fund charter school facilities for charter schools on state land.
- SB2518/HB1789 adds a line item to the state budget separate from the charter school per pupil funding to acknowledge the significant and growing responsibilities of each and every charter school governing board since the passing of Act 130 SLH of 2012. The charter school governance structure is very different from the HIDOE model. This will allow charter schools additional funds to start to build a shared system of supports that charter schools lost when the Charter School Administrative Office was eliminated.
- HB2576 proposes a special fund and a tax credit system to support charter school facilities.

Mahalo for your support of Hawaii's public students, their families and public charter schools.

A handwritten signature in black ink, appearing to read 'Lynn Finnegan', with a stylized flourish at the end.

Lynn Finnegan
Executive Director



Hawaii State House of Representatives
Committee on Education
February 3, 2014

Chair Takumi, Vice Chair Ohno, and Members of the Education Committee,

Mahalo for the opportunity to provide testimony regarding HB2438 and HB2576. This testimony is in support allowing charter schools access to facilities funding both through the charter commission and through the establishment of a special fund for the development of charter school facilities.

I am the Founder and School Leader for SEEQS, the School for Examining Essential Questions of Sustainability. We are the state's newest public charter school; we were authorized in December 2012 and opened our doors to our founding class of more than sixty 6th and 7th graders in August 2013. While we are incredibly proud of the work our students are doing and have done thus far, the intent of my testimony is to provide a first-hand account of the desperate financial challenges of finding an appropriate facility--especially in Honolulu--that we can afford on the meager existing per-pupil funding.

As a brand new school, we began with a small founding class; this enabled 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, as is consistent with best practices in charter schools across the country. However, we face with a serious financial challenge. 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 must pay our five core teachers--as a secondary school our students need access to Science and History in addition to English Language Arts and Mathematics, plus Arts--as well as our two administrators. Our school is run by a School Leader/Principal and a School Manager. As you can estimate, paying fair salaries for our employees uses up the bulk of our revenues provided by per-pupil allocation. We also had to purchase curricular materials, technology, infrastructure, and provide professional development for our teachers. And then we must pay rent! Our current facility, in which we will barely fit by the end of our second year, costs us more than \$9,000 per month in rent and utilities.

By full size, our school will reach approximately 420 students. Accordingly, by full size we will need on the order of 25,000 to 35,000 square feet to house our facility. Commercial real estate prices ranging from \$1.35 to \$2.00 per month and up per square foot. There is no doubt--we cannot afford a facility of that size at this point, and even in the future this will stretch our budget beyond our capacity to handle.

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, based on our vision for a school that is based on best practices in education, as well as community need and interest. Our successes already in this first year, as well as the already high demand for next year's enrollment (more than 70 applications for sixty spots within the first two weeks of open enrollment!) are a testament to the great success our school can be as part of the Hawaii state public school system. 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.

Mahalo for your consideration.
Buffy Cushman-Patz
SEEQS Founder and School Leader

ohno2-Rexie

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 10:19 AM
To: EDNtestimony
Cc: dercoff@aol.com
Subject: Submitted testimony for HB2576 on Feb 3, 2014 14:00PM

HB2576

Submitted on: 2/3/2014

Testimony for EDN on Feb 3, 2014 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Beatrice DeRego	Individual	Oppose	No

Comments: Allowing individuals to take a tax credit for charter schools only sets them up as a special classification under the DOE. If this is going to pass, it should include all schools whether charter, public, and private. There are better ways to assist charter schools with funding - one would be to revise the formula used by the DOE for funding. However, it must always be remembered that charter schools have given up funding and the tedious requirements demanded of public schools in exchange for autonomy.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 1:33 PM
To: EDNtestimony
Cc: gomama808@gmail.com
Subject: Submitted testimony for HB2576 on Feb 3, 2014 14:00PM



HB2576

Submitted on: 2/3/2014

Testimony for EDN on Feb 3, 2014 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Golojuch	Rainbow Family 808	Oppose	Yes

Comments: Charter schools need to be independent and not depend on taxpayers funds. Taxpayer funds are limited and need to support Public Schools. H2576 would take much needed funds away from the already strapped public schools in Hawaii

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ohno2-Rexie

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 5:10 PM
To: EDNtestimony
Cc: ggzfranchini@yahoo.com
Subject: Submitted testimony for HB2576 on Feb 3, 2014 14:00PM



HB2576

Submitted on: 2/3/2014

Testimony for EDN on Feb 3, 2014 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Gina Franchini	Individual	Support	No

Comments: Please support the future success of charter schools

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