

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON EDUCATION
ON
HOUSE BILL NO. 49

February 9, 2015

RELATING TO EDUCATION

House Bill No. 49 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 unspecified general fund appropriations for FYs 2015-2016 and 2016-2017 and similar unspecified Hawaii Charter School Facility Development Special Fund appropriations for FYs 2015-2016 and 2016-2017.

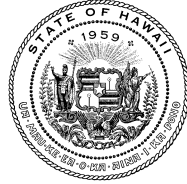
While the Department of Budget and Finance does not take any position on the policy of the Hawaii Charter School Facility Development Special Fund, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to this bill, 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.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

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

Date: Monday, February 9, 2015
Time: 2:00 P.M.
Place: Conference Room 309, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 49, Relating to Education

The Department of Taxation (Department) appreciates the intent of H.B. 49 and provides the following comments for your consideration.

H.B. 49 creates a nonrefundable income tax credit for contributions of money or in-kind goods and services contributed for the development of charter school facilities. The bill imposes a cap on the credit per taxpayer per taxable year and places an aggregate cap on the total certified contributions per taxable year. The measure applies to taxable years beginning after December 31, 2015.

The Department notes that this credit contains a definition of "net income tax liability" which may cause some confusion among taxpayers. If the intent of this provision is to ensure this credit is applied to a taxpayer's income tax liability as reduced by other tax credits, the Department suggests stating this in a separate subsection rather than in a definition.

The Department suggests that the language in subsection (f) be clarified. The final paragraph of subsection (f) imposes an aggregate cap on certified contributions in two places. The Department suggests inserting "in a taxable year" after "contributions" on page 3, line 19 and deleting the final sentence of subsection (f). This amendment will clarify the statement and operation of the aggregate cap.

Thank you for the opportunity to provide comments.

DAVID IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

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

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Tel: 808-586-3775 Fax: 808-586-3776

FOR: HB 49 Relating to Education
DATE: Monday, February 9, 2015
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

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

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in support of House Bill 49, “Relating to Education,” House Bill 232, “Relating to Facilities Funding for Charter Schools,” House Bill 233, “Relating to Charter Schools,” and House Bill 1251, “Relating to Public Charter Schools,” each of which would provide much needed facilities support for charter schools.

The need to address facilities costs for start-up charter schools is arguably the 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.

We note that, as in past years, the Commission this year submitted proposed Capital Improvement Projects (“CIP”) as submitted from charter schools. The Commission has been instructed that eligibility for these requests is limited to start-up charter schools located on state land. These projects are not recommended for approval in the executive budget. If charter school CIP projects are not to be considered, in the Commission’s view it is all the more important that other means of providing at least some support for the charter schools’ facilities needs be considered.

House Bills 49, 232, and 233 are proposals reintroduced from the 2014 Legislative Session that would provide to support charter school facilities needs. HB 49 would 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.

HB 232 would simply make a general fund appropriation for charter school facilities needs, based in part on charter school need and performance. HB 233 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 funds to the schools. We believe these proposals, which result from discussions of the informal interagency working group on charter school funding convened by then Senate Committee on Education Chair and current Senate Committee on Ways and Means Chair Jill Tokuda after the 2013 Legislative Session, merit the Legislature's continued consideration.

HB 1251, a new proposal introduced this Session on behalf of the Hawaii Public Charter Schools Network, combines several components of these other measures and also merits the Legislature's consideration. Among other things, this bill would establish a charter school facilities funding working group similar to that contemplated by HB 233 but instead have the Commission determine criteria for and prioritize the allocation of funds; would authorize the issuance of general obligation bonds; would appropriate general funds for charter school facilities design, planning, construction, repair, and maintenance; and would require state departments to identify unused properties that may be suitable for use by a charter school or a pre-plus program.

This past Friday, the Department of the Attorney General noted several legal concerns with respect to certain provisions that are included in HB 233 and HB 1251. The Commission is prepared to work with the Department and the Committee to address these concerns so that these measures can advance.

Finally, the Commission acknowledges the State's fiscal challenges. 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.

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 49

INTRODUCED BY: Ito

EXECUTIVE SUMMARY: Establishes an income tax credit of ___% of the value of contributions of in-kind goods and services to the newly proposed Hawaii charter school development special fund. The enactment of this measure may allow taxpayers to double-dip, namely take the deduction and the credit at the same time. This measure would also 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 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 2016 and fiscal 2017 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 2016 and fiscal 2017 to support the development of charter school facilities. The appropriations shall take effect on July 1, 2015.

EFFECTIVE DATE: Tax years beginning after December 31, 2015

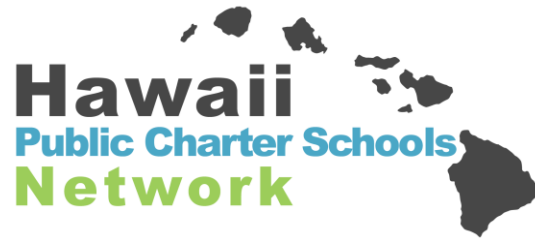
STAFF COMMENTS: This measure establishes an income tax credit to encourage taxpayers to make contributions of money or in-kind services to the Hawaii charter school facility special development fund. However, the tax system is a poor means of achieving such social goals. Providing such credits against 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.

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.

Technical concerns we have with the bill include these:

- Difficulty in valuation. Taxpayers are allowed a credit for contributions of property and services as well as cash. The state public charter school commission is tasked with verifying and then certifying the amount of any contribution.
- Tax clearance requirement. The bill contains a requirement that the taxpayer have a current and valid tax clearance. However, no allowance is made for a taxpayer that may have a current dispute with the department, or who is current on an approved payment plan.

Digested 2/6/15



Hawaii State House of Representatives
Committee on Education

DATE: Monday, February 9, 2015
TIME: 2:00 p.m.
PLACE: Conference Room 309, Hawaii State Capitol

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

Re: HB 49 – Relating to Education

Mahalo for the opportunity to testify **in support** of HB49, a bill that establishes an income tax credit for taxpayers who make contributions to the development of charter school facilities.

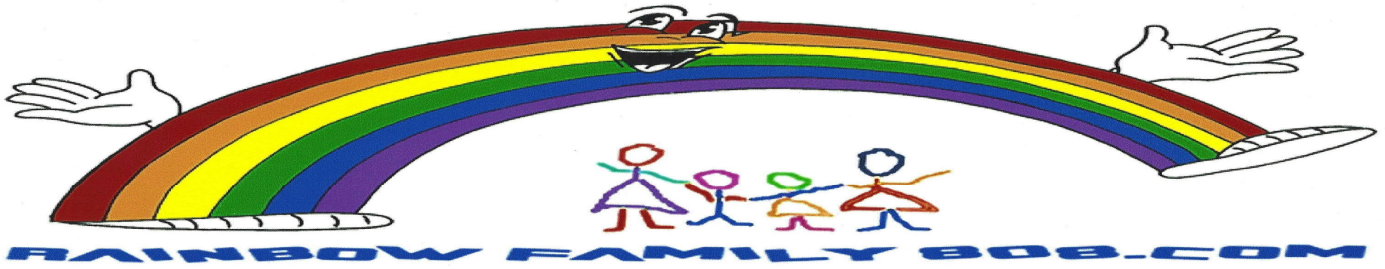
Charter schools in Hawaii have had impressive public-private partnerships built around supporting educational programs. Charter schools struggle with providing for their facilities within the operational per-pupil funding that they receive. As the State continues to look for ways to help charter schools with facilities, HPCSN supports this option that gives a tax incentive to donors for charter school facilities.

Hawaii Public Charter Schools Network (HPCSN) represents 30 of 34 public charter schools in Hawaii and is committed to quality education for all public school students in Hawaii through our support of, and work with, Hawaii's public charter schools.

Mahalo for your consideration.

A handwritten signature in black ink, appearing to read "Lynn Finnegan". The signature is stylized and includes a long horizontal line extending to the right.

Lynn Finnegan
Executive Director



95-954 Makakilo Dr. #71 Kapolei, HI 96707 Email: Rainbowfamily808@gmail.com Phone: 808-779-9078 Fax: 808672-6347

February 8, 2015

House Education Committee

RE: HB 49 Misuse of Public School funds. IN STRONG OPPOSITION

Aloha Chair, Vice Chair and Members,

As President of Rainbow Family 808, a group of straight, LGBT families focused on peace and justice through education, I strongly OPPOSE SB 49 on behalf of all our families and the education of our students.

As a Social Worker, I have found that Public Schools continue to suffer from the drain of their budgets for the benefit of Charter Schools. The expansion of needed classrooms for schools located in high growth areas are behind in construction of said classrooms, and additional schools to address the population growth are still on the drawing boards.

HB 49 again gives a 'sweetheart deal' for churches that operate Charter Schools. There is a name for schools operated by churches: Parochial Schools. This bill reallocates funds for the discount that forms a barrier to our Public School renovation and upkeep of Public School classrooms.

HB 49 undermines the core value of a Public School education that provides an education for ALL STUDENTS. Recently, a Parochial School was triumphed with over ONE MILLION DOLLARS to renovate their school at the expense of Federal and State funds which VIOLATES the Separation of State and Church. When the newspapers reported this misuse of funds the previous Governor had to step in. HB 49 attempts to mandate this violation of Separation of State and Church at the expense of our Public School children/students.

Please DO NOT PASS HB 49 for the protection of our Public School Education that is a foundational belief that education is a great trademark of the USA.

Mahalo nui loa

Carolyn Martinez Golojuch, MSW - President

HB49

Submitted on: 2/8/2015

Testimony for EDN on Feb 9, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
kainalu	Individual	Support	No

Comments: I support this bill H.B NO. 49 because when you give money to public charter schools you get credit towards the tax you'll pay. This bill can help public charter school by letting them getting there own things like computers, staff members & etc. This bill can help the kids by having there own computers so that they dont need to worry about not having a computer for there homework and it can help the the staff members by getting paid alot from the school so that they can teach the kids.