

SB836

Measure Title: RELATING TO PUBLIC CHARTER SCHOOLS.

Report Title: State Public Charter Schools Commission; Facilities Funding; Appropriation; General Obligation Bonds (\$)

Description: Requires state departments, upon the closure of facilities, to consider the facility's suitability for use by public charter schools or early learning pre-plus programs, and to notify the state public charter schools commission or executive office on early learning of the availability and suitability of the facility. Requires more detailed annual reporting by the state public charter school commission. Establishes a charter school facilities funding working group. Appropriates funds for public charter schools. Authorizes the issuance of general obligation bonds and appropriates funds for public charter school facilities design, planning, construction, repair and maintenance.

Companion: [HB1251](#)

Package: None

Current Referral: EDU/GVO, WAM

Introducer(s): KIDANI, KEITH-AGARAN

<u>Sort by Date</u>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to EDU/GVO, WAM.
2/6/2015	S	The committee(s) on EDU/GVO has scheduled a public hearing on 02-11-15 1:15PM in conference room 229.

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment

DAVID IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

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

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FOR: SB 836 Relating to Public Charter Schools
DATE: Wednesday, February 11, 2015
TIME: 1:15 p.m.
COMMITTEE(S): Senate Committee on Education
Senate Committee on Government Operations
ROOM: Conference Room 229
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Chairs Kidani and Dela Cruz, Vice Chairs Harimoto and Nishihara, and members of the Committees:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony in support of Senate Bill 836, “Relating to Public Charter Schools,” 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.

As you know from last week’s Committee hearing, there are several bills being considered by the Legislature that would provide facilities support to charter schools. SB 836, a new proposal

introduced this Session on behalf of the Hawaii Public Charter Schools Network, combines several components of the other measures and also merits the Legislature's consideration.

Among other things, this bill would 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 prioritize the allocation of funds to charter schools based on criteria established by the Commission; 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.

At Friday's Committee hearing, the Department of the Attorney General noted several legal concerns with respect to certain provisions in Senate Bill 849, which like Senate Bill 836 would make funds available generally for charter school facilities and would establish a charter school facilities funding working group that includes the chairs of the Senate Committee on Ways and Means and the House Committee on Finance. Specifically, the Department advised that the Legislature should provide more guidance as to projects that can be funded and that a working group with legislator members should serve in an advisory role.

The Commission has discussed the first concern with Deputy Attorney General Randall Nishiyama, who presented the Department's testimony. Based on that discussion, we would respectfully suggest that Section 4 of the bill be amended so that the new proposed HRS § 302D-29.5(a) reads as follows:

(a) Beginning with the 2016-2017 fiscal year, and each fiscal year thereafter, the legislature shall consider to make an appropriation and bond authorization to the commission for the design, planning, construction, repair, and maintenance of charter school improvements to address issues of health, safety, and legal compliance; expand or improve instructional space; provide for food services; and provide restroom facilities. Such appropriation and bond authorization shall be separate from, and in addition to, any appropriation made to charter schools pursuant to sections 302D-28 and 302D-29.5. These amounts shall be prioritized for allocation by the charter school facilities working group. [New language italicized.]

We are advised that this language would address the first concern by adding sufficiently specific legislative direction as to the purposes of the funding, while still preserving the legislative intent that the details as to which specific projects are funded be delegated to the Commission and the working group.

As to the second concern, this Committee voted to amend Senate Bill 849 to assign an advisory role to the working group proposed in that measure. Another approach is being taken by the House Committee on Education, which we understand will revise House Bill 1251, the House companion to Senate Bill 836, to replace the legislator members of the working group with non-legislator members. Another option might be to have members who are appointed by the

legislators. Either of these options would have the advantage of preserving the bill's sound model of having the Commission develop the criteria, based on the legislative parameters proposed above, that then would be applied by the working group.

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.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON EDUCATION AND
GOVERNMENT OPERATIONS
ON
SENATE BILL NO. 836

February 11, 2015

RELATING TO PUBLIC CHARTER SCHOOLS

Senate Bill No. 836 proposes to amend Section 302D, HRS, to allow the use of vacant departmental facilities for charter schools or pre-plus programs; make appropriations starting in FY 2017 to assist the State Public Charter School Commission with its facilities funding needs; establishes the “Charter School Facilities Funding Working Group”; provides unspecified general fund appropriations for charter school facilities funding; and authorizes the Director of Finance to issue unspecified general obligation (G.O.) bond funds for this purpose.

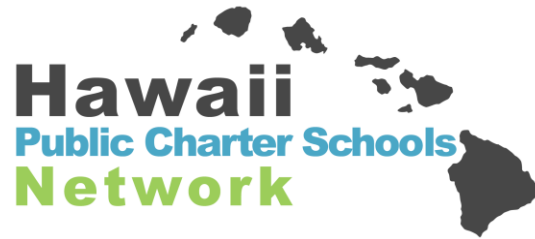
The Department of Budget and Finance would like to make several technical comments on this bill with respect to G.O. bond funding for charter schools. First, charter schools already have the ability to request capital funding as part of the budget process through the proposed charter school programs budget submittal. The availability of G.O. bonds and/or funds for capital projects is competitive across all programs of the State - including, the Department of Education, the Hawaii State Public Library System and the University of Hawaii, and every other program in the State.

Second, in determining the appropriateness of providing G.O. bonds to any charter school, the Legislature should consider the following factors with respect to startup charter schools: a) suitable site control arrangements of property occupancy

that is consistent with the duration of long-term debt; b) disposition of buildings and land back to State ownership should a public charter school discontinue its operations; and c) the major financial commitment of funding capital improvements for start-up public charter schools as well as the recurring repair and maintenance costs associated with these facilities.

Third, federal tax law requires that tax-exempt G.O. bond proceeds be used only to finance projects that serve public purposes. Consequently, charter schools would need to ensure no private activity use of general bond funded facilities.

Finally, as funding for these projects is not included in the proposed Executive Budget, an amount for the corresponding annual debt service will need to be included in the Legislature's version of the budget should this bill pass the Legislature.



Hawaii State Senate
Committee on Education

DATE: Wednesday, February 11, 2014

TIME: 1:15 p.m.

PLACE: Conference Room 229 , Hawaii State Capitol

Chair Kidani, Vice Chair Harimoto and members of the Committee,

Re: SB 836 RELATING TO PUBLIC CHARTER SCHOOLS

Mahalo for the opportunity to testify in strong support of SB 836, a bill that requires state departments, upon the closure of facilities, to consider the facility's suitability for use by public charter schools or early learning pre-plus programs, and to notify the state public charter schools commission or executive office on early learning of the availability and suitability of the facility; requires more detailed annual reporting by the state public charter school commission, establishes a charter school facilities funding working group; authorizes the issuance of general obligation bonds; and, appropriates funds for public charter school facilities design, planning, construction, repair and maintenance.

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)." Some charter schools have facilities on state land and have access through the normal CIP process - others do not (see attachment).

The language for the charter school facilities working group is a solution oriented idea to address any remaining questions or concerns about charter schools receiving G.O. Bond funding. This bill adds "risk and recourse to the State" language to the criteria that the working group is to consider, an added protection to the State as the director of budget and finance would be a part of the working group.

In order to help provide relief to charter schools that are either not on state land or paying rent for school facilities with the per pupil allocation they receive from the State, HPCSN supports language in

this bill to appropriate funds for the state public charter school commission to allocate to charter schools for facilities related expenses.

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 through our support of, and work with, charter schools.

Thank you for your attention to and consideration of this very important matter to charter schools. Your support of Hawaii's public students is greatly appreciated.

Mahalo for your consideration.

A handwritten signature in black ink, appearing to read "Lynn Finnegan", with a horizontal line extending to the right.

Lynn Finnegan
Executive Director

Attachment

Charter Schools Facilities Bills

			GO Bond	General Funds
On state land	Lease	Kawaikini, Kekaha+, Kanuikapono, Halau Ku Mana, ULS, Hakipuu, Ka Waihona,	P	A
	USDA loan	Kamakau, WHEA+, Kanu o ka Aina, Volcano ~+	P	A
	Conversions	Kualapuu, Lanikai^, Waialae^, Kamaile, Waimea Middle^, Lapahoehoe	P	A
Not on state land	Lease	Kihei, KANAKA, MBTA, HTA, Voyager, Halau Lokahi, Connections+, Na Wai Ola, Kua o ka La , HAAS, SEEQS, Malama Honua		P
	USDA loan	Kona Pacific, Innovations.		P
Facilities are on both on state land and not on state land		Nawahi	A	P
Checking status		Ka Umeke, Laahana		A

Note: Leases could be held by non-profit, school enters lease with non-profit

[Blue](#) = Checking/verifying with schools

P = Priority

A = Applies

+ Received GIA

^ Received CIP and/or upgrades through the DOE system

~ USDA in process



SB836
RELATING TO PUBLIC CHARTER SCHOOLS
Senate Committee on Education
Senate Committee on Government Operations

February 11, 2015

1:15 p.m.

Room 229

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees a position of **SUPPORT WITH AMENDMENTS** for SB836, which seeks to alleviate the unique financial burdens borne by start-up public charter schools, in meeting their facilities needs.

Meeting start-up charter schools' facilities needs is arguably the single greatest unaddressed challenge for Hawai'i's public charter schools. Currently, start-up charter schools must pay for the costs of their facilities using their already-stretched operational funds. This is a cost that is not borne by conversion charter schools, or schools under the Hawai'i State Department of Education. To address this disparity, SB836 makes certain proposals relating to the potential use of vacant state facilities by public charter schools. OHA believes that this innovative approach has the potential to relieve some of the significant financial burdens felt by start-up public charter schools, including Hawaiian-focused charter schools.

While OHA supports SB836, we recommend that SB836 be amended to help better realize the benefits of this measure.

First, we recommend that SB836 be amended to require that state departments give express notice to the State Public Charter School Commission and to the Executive Office on Early Learning, when a vacant state facility becomes available. As currently written, SB836 is silent as to any notice mechanism. Accordingly, OHA recommends amending the language on page 2, lines 13-14, to read as follows:

(b) Each department shall identify to the state public charter school commission and the executive office of early learning suitable unused facilities that may be appropriate for:

Second, we recommend that SB836 be amended to require that the State Public Charter School Commission affirmatively solicit applications for the use of vacant state facilities from public charter schools, consistent with the affirmative obligation placed on

the Executive Office on Early Learning with respect to pre-plus programs. Accordingly, OHA recommends amending the language on page 3, lines 9-15, to read as follows:

(e) Upon receipt of a notice pursuant to subsection (b), the state public charter school commission and the executive office on early learning shall each solicit applications from public charter schools and pre-plus programs, respectively, which are interested in using and occupying all or portions of the facilities, and shall each submit a prioritized list of charter schools and pre-plus programs to the department of education for final determination of which charter school or schools, and pre-plus program or programs, if any, shall be authorized to use and occupy the facilities."

Third, as a housekeeping matter, OHA notes that section 4 of the bill changes HRS Section 302D-29.5, by eliminating subsection (a), renaming subsequent subsections accordingly, and creating a new subsection (d); however, a reference to the former subsection (b) is retained. This reference to subsection (b) should therefore be replaced with a reference to the renamed subsection (a). Accordingly, OHA recommends amending the language on page 7, line 3, to read as follows:

~~[(b)]~~ (a) to the charter schools. The criteria shall include but not

SB836 helps to bring parity to start-up charter schools, and help address the longstanding problem of financing their facilities. OHA therefore urges the Committee to **PASS WITH AMENDMENTS** SB836.

Mahalo nui for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
To: [EDU Testimony](#)
Cc:
Subject: Submitted testimony for SB836 on Feb 11, 2015 13:15PM
Date: Sunday, February 08, 2015 6:42:40 AM

SB836

Submitted on: 2/8/2015

Testimony for EDU/GVO on Feb 11, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Redfeather	Hawaii Island School Garden Network	Support	No

Comments: Mahalo for the inclusive nature of this Bill to support our Charter Schools who need to establish parity with HiDOE schools in the mentioned areas. Charter Schools are the front line of responsive educational practices that can integrate learning with life, just what our keikis need to prepare themselves for the uncertain world to come. It's not enough to know how to read and do basic math, these core subject areas need to be integrated into life skills learning also. This is where the Charter School shines! They are preparing our youth to be future decision makers that possess the skills necessary to lead. They must have additional resources to continue serving our communities. Aloha, Nancy Redfeather Supervisor - FoodCorps Hawai'i Hawai'i Farm to School and School Garden Hui Hawai'i Island School Garden Network Programs of The Kohala Center

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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