

HB-396

Submitted on: 2/9/2021 5:35:51 PM

Testimony for EDN on 2/11/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Oppose	No

Comments:

OPPOSE

It's about time that the legislature recognizes that a designation of what is and is not a charter school accepted on our islands is necessary. Many folks believe that these charters of which you speak are public charters. THIS is not what your bill states. One only has to look to the continent to see what opening doors to private charters and vouchers will do to our islands.

Clarify, be specific and open. IF the legislature supports only public charters, then state it. IF the legislature is moving in a new direction, state that.

DAVID Y. IGE
GOVERNOR



JOHN S.S. KIM
CHAIRPERSON

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

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FOR: HB 396 Relating to Education
DATE: February 11, 2021
TIME: 3:00 P.M.
COMMITTEE: Committee on Education
ROOM: Conference Room 309
FROM: Yvonne Lau, Interim Executive Director
State Public Charter School Commission

Chair Woodson, Vice Chair Kapela, and members of the Committee:

The State Public Charter School Commission (“Commission”) appreciates the opportunity to submit this testimony providing **COMMENTS on HB 396** which allows nonprofit organizations to establish an applicant governing board and develop a charter application for a start-up or conversion charter schools with certain requirements.

The Commission’s concerns are similar to the concerns raised for the similar proposed changes in **HB 1220**. The elimination of the prohibition of members of a non-profit organization from serving on an applicant governing board raises issues of conflict of interest. Charter School governance is at the heart of a well run and high-quality public charter school. Conflicts of interest have arisen in the past with public charter school governing board members and their concurrent membership with an associated non-profit governing board.

Indeed, the Hawaii Ethics Commission issued a [guidance letter](#) to all public charter school governing boards noting the possible conflicts of interest that can arise. For these reasons, the Commission has concerns with the changes to the statute being proposed.

Thank you for the opportunity to provide this testimony.

Testimony in Support of HB 396
John Thatcher, February 11, 2021

Aloha Chair Woodson, Vice Chair Kapela and members of the House Committee on Education. I am a strong supporter of HB 396.

In 2015 Ember Reichgott Junge visited Hawaii to meet with some of our charter school leadership. Ember is the former Minnesota state senator that introduced the bill that led to the first charter school being established in our country. In 2016 she wrote in her blog (<https://www.embercommunications.com/blog/2017/1/26/hawaii-chartering-20-years-later-a-policy-of-one>) a piece she called, "Hawaii Chartering 20 Years Later: A Policy of One." Five years later we are still struggling with fundamental issues Ember identified. She wrote:

"Having toured six charter public schools in Hawaii, there are three things I especially appreciate about Hawaii chartering. I see great innovation; I see opportunity for culturally-focused charter schools to thrive; and I see real passion for their schools among chartering educators, students, and families.

I also see only 34 charter public schools on the islands, despite great demand from families. Why? Over 20 years, chartering policy has strayed from its Hawaii origins, and from every other chartering state in the union. The result? Chartering autonomy is compromised in ways not seen elsewhere:

One Authorizer vs. Multiple Authorizers. Hawaii has one charter school commission that authorizes all its charter schools. There is no other authorizer, not even individual school districts, because there are no school districts. All education is centralized in the state government. Although Hawaii law allows for multiple authorizers, a second authorizer has not been established.

Authorizer Funded by State, Not Schools. The single authorizer is funded by state appropriation. In other states, where multiple authorizers exist, charter schools fund their chosen authorizer with up to 3% of per pupil funding. This per pupil funding model existed in Hawaii before it was changed.

Funding Controlled by Authorizer, not DOE. In Hawaii, the single authorizer has power to distribute (or withhold) per pupil funds from the charter school. In other states, funds are distributed directly to the charter school from the state, without going through the authorizer. The authorizer's normal role is to hold the charter school accountable to performance standards, or it may be closed. It has no power over funding distribution.

Standard vs. Negotiated Charter Agreements. In Hawaii, there is one standard charter agreement offered by the commission to every charter school. Charter agreements are not negotiable. This eliminates the fundamental autonomy of chartering, where every charter school has opportunity to negotiate performance outcomes with its authorizer to fit its specific mission and learning strategies.

Nonprofit vs. state-controlled board. In Hawaii, charter school boards are extensions of the state. In all other states, charter schools are nonprofit organizations governed by a board of directors with fiduciary duties of accountability.

I'm pleased that the policymakers, state board of education members and others I met with in Hawaii last week engaged in good discussions about these differences and their impact on the success of

chartering in Hawaii. Changes are underway to bring chartering back to its origins in Hawaii. It is a privilege to be a resource for that effort.”

I emailed Ember yesterday to update her on the positive charter school bills being heard this session. In response to this bill, she wrote, “Independence and autonomy are integral to the definition of a charter school and the nonprofit structure provides that. The structure allows the charter school to establish its independent board of directors subject to the state's nonprofit laws, who are fiduciaries for the operation of the school and are accountable to the authorizer (or sponsor). Board members are elected by the parents and teachers of the schools and are not subject to removal by government or any other entity.”

As the principal of Connections Public Charter School in Hilo, one of the ongoing issues we have faced is our ability to define ourselves as an autonomous entity. We are considered an entity of the state. We work with a separate, affiliated, non-profit but this is not the same as having non-profit status. Charter schools are public schools by law and are tax exempt. All of the other 44 states with charter school laws allow charter schools to form as non-profit organizations. Filing Articles of Incorporation as a non-profit organization is all that is required to obtain a separate tax identification number and establish the school as a non-profit corporation. In addition, most charter schools in our country take the additional step of filing Form 1023 with the Internal Revenue Service to apply for a specific designation as a 501(c)(3) organization. Receiving an official designation as a 501(c)(3) organization does not change the tax exempt status of the charter school. It merely clarifies it for some entities, most notably charitable organizations and potential funders who require official 501(c)(3) documentation in order to give grants.

This bill allows Hawaii to take a first step towards recognizing some of the founding principles of chartering that were outlined by our Governor in 1994 when he was chair of the House Education Committee. It was made in response to a public outcry for change in K-12 education and was the longest speech that Representative Ige ever gave in the House. Other members yielded their time so he could exceed the 10 minute limit. His speech lasted 35 minutes. Here are some excerpts from that speech:

“So what does (the bill) do? It provides an opportunity for absolute school empowerment. We’re providing for twenty-five schools to be free from the public school system, to develop a program that is student outcome and performance based, to establish a local school board limited to dealing with only school policies and setting goals and evaluations. We provide the schools the ultimate waiver... we’re asking the system to give these schools the per-pupil expenditure that we currently make and ask them to do the best that they can on behalf of our children.”

Thank you for this opportunity to testify in support of HB 396.

A handwritten signature in blue ink that reads "John Thatchers". The signature is written in a cursive, flowing style.

HB-396

Submitted on: 2/10/2021 2:58:18 PM

Testimony for EDN on 2/11/2021 3:00:00 PM

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

Comments:

I am in support of HB 396, I believe we should Allow nonprofit organizations to establish an applicant governing board and develop a charter application for a start-up or conversion charter school; provided that (1) the governing board operates separately from the nonprofit organization and (2) the governing board may include members of the nonprofit organization, but such members shall not constitute a majority of the governing board's members. It will allow more access for more schools on innovation.

Aloha St

I am writing to you on behalf of Maui's most vulnerable student population. Since 1973 Maui Hui Malama has been providing a safe space for students who have not fit in to the current Maui public schools where they are able to receive an education through the Department of Education, off campus of their home school due to a variety of reason. Majority of our clients have been asked to leave campus due to behavioral issues often linked to historical and generational trauma. They are provided work to do at home without the help of DOE teacher, and unable to access any services on campus. Some of them have been bullied and feel unsafe left feeling like they have to choose to between an education or safety. Many more reasons apply, but the same result are true, Maui Hui Malama has been a community support for the Department of Education and our Maui students for almost 50 years.

The changes in the Department of Education within the last 50 years have been difficult to navigate for students and ourselves. The requests to overcome the communication barriers between the DOE, our students, and our agency have been a glaring community need within the past 5 years at least. We took a leap to decide to apply as charter, to do what we have been doing for almost 50 years, but to better the communication and align with DOE.

You can imagine our surprise when we had a team of people looking over the Charter School application process, working tirelessly to meet short deadlines, providing documentation required, and we were not able to even get past the first step and be allowed to apply. Our team are not rookies in government applications processes. I even dare to gloat that we have strong skills in that area.

On April 15, 2020 we received a letter informing us that our intent to apply was denied with one single reason listed:

After review of the Intent to Apply Packet, the Commission has found the submission to be incomplete:

- *Resolution provided does not articulate the stated requirements*

As a first time charter school applicant, I thought, I don't understand what that means, but I'm sure there's a good reason. I then emailed to ask for clarification on this statement so that I could learn from my mistakes. In my email I asked for the clarification below:

I understood that the list of documents that was listed on the first page needed to be turned in by the deadline, but there is nowhere that states that areas need to be articulated to a certain extent. If I missed the area on the instructions that state that, please let me know.

The response I received stated this:

Thank you for your email. I'm sorry that the intent to apply packet submitted by your team was found to be incomplete. As stated in the letter that you received yesterday, we noted that the

resolution provided does not articulate the stated requirements. In this case, both resolutions submitted did not meet the requirements of the RFP.

The first requirement was for a resolution from the applicant governing board approving the execution of the intent to apply packet. The resolution submitted to address this requirement was signed by you. However, since you are also the primary contact for the purposes of the intent to apply packet, the resolution should be signed by someone else on the board to give you the authority to do so.

The second requirement was for a resolution from the nonprofit board approving the establishment of the applicant governing board. The resolution submitted was missing the date that the board took action.

My team and I looked through every link provided on the in the RFP have not found the specifications of these reasons to be listed.

On April 21, 2020. I asked for further clarification and referral to the resources that are provided to show us specifications required. Till this date I have not received a response.

This application process seems to navigate more on technical aspects versus community need and the ability for a group to provide data driven processes that have a strong hold on high level delivery. Even those technical aspects can be identified to not have a strong backing of being available to applicants as aspects that are required. I hope this Commission can identify this issue as barrier to the students who really need more realms of education paths then what is currently offered. Many of those students at a loss due to this technical issue are Hawaii's most vulnerable keiki.

Even if Maui Hui Malama has been a strong DOE support for almost 50 years, we are not asking for a free pass to an approved charter. What we are asking for is a honest, transparent, and ethical process that doesn't shut down the possibility to change thousands of student's lives due to technicalities which can be looked at as created and delivered by choice of the management of this application process. We strongly support bill HB396 and feel this is a need to deliver the schools the our keiki here in Hawaii deserve.

I know that we are all in difficult times during our world's pandemic, and we appreciate you still working diligently in supporting Hawaii's students. I look forward seeing this bill passed and the possibilities of future endeavors that will come from it.

Sincerely,
Chelsie Evans
Maui Hui Malama
Executive Director
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