

Honolulu, Hawaii

APR 27 2012

RE: S.B. No. 2115  
S.D. 2  
H.D. 2  
C.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2115, S.D. 2, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to adopt the recommendations of the Charter School Governance, Accountability, and Authority Task Force (Task Force) by repealing chapter 302B, Hawaii Revised Statutes, and establishing a new charter school law that creates a solid governance structure for Hawaii's charter school system with clear lines of authority and accountability that will foster improved student outcomes.

Your Committee on Conference finds that the Task Force was established pursuant to Act 130, Session Laws of Hawaii 2011, in response to questions and concerns raised by policy makers and advocates alike about the integrity of Hawaii's charter school

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governance structure and the overall strength of Hawaii's laws in establishing clear lines of authority that ensure accountability of the charter school system.

Specifically, the goal of the Task Force was to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of Hawaii's charter school system, including the Board of Education, Department of Education, Charter School Administrative Office, Charter School Review Panel, and local school boards.

In conducting its work, the Task Force looked at various sections of the Charter School Model Law put forth by the National Alliance for Public Charter Schools and used the model law as a guide in compiling its recommendations to the Legislature. The Task Force was also fortunate to have the assistance and input of the National Association of Charter School Authorizers and the National Governors Association.

After in-depth examination and discussion, the Task Force concluded its work and issued its report and recommendations to the Legislature. This measure encapsulates the Task Force's recommendations.

Your Committee on Conference notes that Hawaii's charter schools are ranked each year by the National Alliance for Public Charter Schools (NAPCS). Last year, Hawaii's ranking fell from thirty-fourth place to thirty-fifth place, out of a total of forty-two states. NAPCS reviewed this measure and testified that if this measure passes the Legislature, Hawaii's rank would move up fourteen spots to be the state ranked twenty-first.

Your Committee on Conference further finds that this measure is a major departure from the current charter school law and believes that this measure will strengthen Hawaii's charter school system and will move Hawaii's charter schools toward greater student outcomes.

Your Committee on Conference has amended this measure by:

- (1) Amending the definition of "authorizer" to clarify that "authorizer" means an entity established under this measure with chartering authority;
- (2) Inserting a definition for the term "charter" to mean a charter application as approved by an authorizer;



- (3) Renaming the term "application" as "charter application" for purposes of clarity and consistency;
- (4) Clarifying that the Board of Education (Board) shall not approve any application for chartering authority until July 1, 2014, or until the Board adopts administrative rules, whichever is later;
- (5) Inserting language requiring the Board to execute an authorizing contract with an eligible authorizing entity within sixty days of deciding to grant chartering authority to the entity;
- (6) Clarifying that an authorizer shall not provide technical support to a charter school it authorizes in cases where the technical support will directly and substantially impact an authorizer's decision related to the authorization, renewal, revocation, or nonrenewal of the charter school; provided that this prohibition shall not apply to technical support that an authorizer is required to provide to a charter school pursuant to federal law;
- (7) Removing the requirement that an authorizer provide charter schools with an itemized accounting of the actual cost of services purchased from the authorizer by the charter school;
- (8) Removing language specifying the procedures for authorizers and charter schools to follow when a dispute arises as to charges for services purchased from an authorizer by a charter school;
- (9) Removing language specifying the deadline by which the Board must communicate to authorizers the requirements for the format, content, and submission of an annual report;
- (10) Clarifying that in selecting members of charter school governing boards, consideration shall be given to persons possessing strong financial and academic management and oversight abilities and human resource and fundraising experience;
- (11) Clarifying that all charter school employees and members of governing boards shall be subject to the Ethics Code, chapter 84, Hawaii Revised Statutes;



- (12) Inserting, as a requirement for certain funding eligibility for conversion charter schools managed and operated by nonprofit organizations, a minimum annual contribution of \$1 per pupil for every \$4 per pupil allocated by the Department of Budget and Finance for the operation of the conversion charter school;
- (13) Inserting figures to specify that the maximum total required per pupil contribution that a nonprofit organization that manages a conversion charter school shall be required to pay is \$1,650 for school years 2012-2013 through 2015-2016, and \$1,815 for school years 2016-2017 through 2020-2021;
- (14) Clarifying that an authorizer shall be responsible for managing, rather than collecting, analyzing, and reporting, all data from each charter school it oversees;
- (15) Clarifying that an authorizer shall require each charter school it oversees to submit an annual report, which shall include the status of the charter school's compliance with annual performance targets, as determined by its charter contract;
- (16) Inserting a deadline of September 1 by which an authorizer shall issue a charter school performance report and charter contract renewal application guidance to any charter school whose charter will expire the following year;
- (17) Specifying that charter schools have thirty days to respond to the authorizer's performance report;
- (18) Inserting a deadline of March 1 by which the governing board of a charter school shall be required to submit a charter renewal application to its authorizer;
- (19) Specifying that an authorizer must decide whether or not to renew a charter within forty-five days of the filling of a renewal application;
- (20) Adding language to clarify that the charter revocation and non-renewal process shall allow charter holders access to representation by counsel, subject to the requirements of section 28-8.3, Hawaii Revised Statutes;



- (21) Specifying that an authorizer shall report its action taken to renew, not renew, or revoke a charter to the Board within fifteen days of taking action;
- (22) Adding language to require that in the event of a public charter school closure for any reason, if the public charter school received an appropriation for capital improvements to its facilities, the charter school or its authorizer shall negotiate with the expending agency for a lump sum or installment repayment to the State of the amounts appropriated, and requiring amounts received from the repayment to be deposited into the general fund;
- (23) Clarifying that in the event of a charter school's closure, other charter schools shall have the right of first refusal for the closed charter school's facilities if the facilities are owned by the State;
- (24) Adding language to authorize the Board to adopt administrative rules to govern charter transfers among authorizers;
- (25) Inserting a deadline of twenty days prior to the convening of each regular session of the Legislature by which the Board's annual report to the Governor, Legislature, and public shall be submitted;
- (26) Adding language to require that the Board's annual report shall include a discussion of all Board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools;
- (27) Changing the title of section 25 of the new charter school law to more accurately reflect the contents of the section;
- (28) Clarifying that charter schools and their employees, the State Public Charter School Commission (Commission) and its employees, and governing boards and their members shall be subject to the Ethics Code, chapter 84, Hawaii Revised Statutes;
- (29) Requiring charter schools to reimburse the Department of Education for the actual costs of administrative services rendered by the Department related to federal grants,



subsidies, and supplemental grants in an amount not to exceed six percent of the charter school's federal grants, subsidies, or supplemental grants, whichever is appropriate;

- (30) Clarifying that no charter school may assess tuition;
- (31) Specifying that the maximum amount the Charter School Administrative Office may withhold for operational expenses is two percent of the annual charter school general fund allocation;
- (32) Clarifying that the salaries of the Charter School Administrative Office's Executive Director and staff shall be set by the Commission in accordance with chapter 89C, Hawaii Revised Statutes, rather than upon the recommendations of charter schools within the State, and with applicable law;
- (33) Adding language to clarify that the Charter School Administrative Office shall serve as the designated staff of the Commission;
- (34) Inserting language to make conforming amendments to section 302A-1302, Hawaii Revised Statutes, to require that beginning with fiscal year 2012-2013, and every year thereafter, each authorizer shall distribute the allocations due to each school it authorizes directly to the charter school;
- (35) Adding language to require that all rules, policies, procedures, guidelines, and other material adopted or developed by the Board to implement provisions of the Hawaii Revised Statutes that are made applicable to public charter schools prior to the effective date of this measure, remain in full force and effect until amended or repealed by the Board pursuant to chapter 91, Hawaii Revised Statutes;
- (36) Making this measure effective upon its approval; and
- (37) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your



Committee on Conference is in accord with the intent and purpose of S.B. No. 2115, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2115, S.D. 2, H.D. 2, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

*Della A Belatti*

DELLA AU BELATTI, Co-Chair

*Karl Rhoads*

KARL RHOADS, Co-Chair

*Kyle T. Yamashita*

KYLE T. YAMASHITA, Co-Chair

*Jill Tokuda*

JILL TOKUDA, Chair

*David Y. Lee*

DAVID Y. LEE, Co-Chair



