



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2115, S.D. 2, H.D. 1, RELATING TO CHARTER SCHOOLS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

LATE TESTIMONY

DATE: Thursday, March 29, 2012

TIME: 5:30 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Holly T. Shikada or Monica T. Morris, Deputy Attorneys General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General (the "Department") supports the intent of this bill, but wishes to raise a constitutional concern with one portion of the bill, due to new language in the bill that appears in the H.D. 1 version. The Department's position is that if this one portion of the bill is removed, the remainder of the bill has no legal infirmities.

Section 1 of this bill, § -12(f) located on page 27, exempts charter schools and their governing boards from chapter 84, Hawaii Revised Statutes, the State Ethics Code. § -25(c) located on page 59 does the same, and also exempts the commission and authorizers from chapter 84. However, these exemptions appear contrary to the mandate in article XIV of the State Constitution, which requires the Legislature to adopt a code of ethics that applies to employees of the State, and members of state boards. Article XIV states: "The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government. To keep faith with this belief, the legislature, each political subdivision and the constitutional convention shall adopt a code of ethics which shall apply to appointed and elected officers and

employees of the State or the political subdivisions, respectively, including members of the
boards, commissions and other bodies." (Emphases added.)

Therefore, exempting charter schools, their governing boards, the commission and authorizers from chapter 84 appears to be inconsistent with article XIV of the State Constitution and we recommend that § -12(f) and § -25(c) in the H.D. 1 version of this bill be removed.

We respectfully ask the Committee to pass this bill with the recommended amendment.