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Quiz Time: Will Hawaii Lawmakers Pass the Charter Schools Test?

By Alia Wong CONNECT | 02/07/2014



A typical "classroom" at Hilo's Ka Umeke Kaeo charter school. Photo taken in October 2013.

It's time for a quiz. Which of the following is true about many of Hawaii's charter schools?

- a) They combine two grades into a single classroom
- b) They co-opt public parks and premises nearby or lease space from businesses in the area
- c) They hold some classes in tents and others in portables
- d) All of the above

The answer is D.

A typical charter school in Hawaii doesn't have much of a campus. Unlike regular Hawaii Department of Education schools, charter schools can't dip into state capital improvement funds to finance things like building construction and repair. Their operating budgets have to cover every expense — overhead costs, construction, transportation and everything in between.

But efforts are underway to solve the nearly two-decade-old facilities dilemma. Among other proposals, a trio of bills advancing through the Legislature would subsidize the schools' brick-and-mortar needs in one way or another.

It's a challenge faced by such schools across the country, often the consequence of compromises that the schools' pioneers made with state governments to obtain their charters.

Rep. Ken Ito, a former chairman of the House Education Committee who was instrumental in passing legislation

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that helped create the current charter school system in the late 1990s, said that he originally envisioned schools that could "be free from the bondage of the DOE" while still enjoying modern, well-equipped campuses. "You don't want (students) to sit out in the rain and do their homework, take their tests," he said. "That's totally unacceptable."

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Those familiar with Hawaii's charter school movement say those schools' administrators have gone to the Legislature over and over to request funding for specific facilities projects — but to little avail. This year, they say, is different, in large part because the bills that have been introduced propose innovative, diverse approaches to the issue.

It's also a beginning of a new chapter in Hawaii's charter school movement, which began in 1994, when the state passed a law allowing the conversion of select DOE schools into "student-centered" schools. Policymakers are now ready to tackle the perennial charter school facilities problem after years spent focused on governance and accountability, said Senate Education Committee Chairwoman [Jill Tokuda](#), who introduced two of the relevant bills.

Charter school administrators, teachers and even parents are already embracing the legislation, describing it in testimony as long overdue.

"My child deserves a roof and a great education," wrote Michelle Banagan, whose child attends West Hawaii Explorations Academy, in [testimony](#) on one of the measures. "We are responsible taxpayers, and would like to see some of our taxes go to our children's school for classroom space."

Many of them are cautiously optimistic, and some fear the legislation and other proposals from the state charter school commission are misguided and could ultimately jeopardize the schools' chances at getting the money they need.

The Bills

[Senate Bill 2516](#) would allocate general funds from the state to the Hawaii State Public Charter School Commission that it could then distribute among charter schools for facilities projects.

[Senate Bill 2517](#) would allow the charter school commission to request general obligation bonds from the state for various facilities needs, including design, construction and maintenance. The bill, according to Tokuda, "turns the tables" because it would give the charter school commission the ability to assign projects to the bonds, an authority typically reserved for the Legislature.

And [House Bill 2576](#), which was introduced by Ito, would both create a special fund for charter school facilities and establish an income tax credit for people who invest in them.

The measures are largely the brainchild of an informal charter school working group that included Tokuda and Ito, which met regularly last year and had their first hearings this week. Tokuda said the bills aim to create a system for financing charter school facilities; they would replace the current piecemeal funding strategies that have left many of the institutions struggling to put roofs over their students' heads.

Tom Hutton, who serves as executive director of the charter school commission and sat on the working group, highlighted the timeliness of the legislation, pointing to a pilot project that the commission is currently rolling out thanks to a law passed last year. The state as a whole received more money this past year than it normally gets from the federal government through the Impact Aid program, which compensates states that serve large populations of military dependents in its public schools. In the pilot project, the commission is dedicating a portion of its extra Impact Aid allocation — \$680,000 of it — to charter school facilities projects during the next school year, money that will be distributed based on a complex rubric looking at need and performance.

The pilot project is going to allow the commission to "test drive" different funding strategies and iron out any regulatory kinks, such as statutory barriers to subsidizing facilities on private property, Hutton said.

"If you spend public money on private property, how do you protect the taxpayer interest? If the school ends up getting closed but the public has already sunk money into it, what happens then?" Hutton said. "We have to work through those questions."

Tokuda said she introduced SB 2516, the bill that would set aside general funds for facilities, as a means of building on the pilot project that will test out metrics and allocation formulas, and develop a framework that would then become the basis for SB 2516. The education committee has suggested a \$1.2 million allocation, although that's up for deliberation by the finance committee, where the bill heads next.

'Baby Steps' or Premature?

Still, charter school administrators aren't convinced things will be different this year. And some are even worried that the Impact Aid pilot project — and SB 2516 — is setting them up for failure.

Steve Hirakami, principal of Pahoehoe's Hawaii Academy of Arts & Science, worries the proposals are flawed, citing a legal opinion he received from the Attorney General earlier this month saying the charter school commission can't use Impact Aid money to create a facilities pilot program. (The legal opinion appears below.)

"There's wording in the law that might come back to bite the state," said Hirakami, adding that he doesn't want the state to get in the habit of relying on the charter schools' Impact Aid allocation for their facilities needs. Hirakami said the legal murkiness of the pilot project could jeopardize all other attempts to secure money for charter schools, reversing recent progress.

And Olani Lilly, the facilities planner at Hilo's Ka Umeke Kaeo Hawaiian-language immersion charter school, said the pilot program is just "creating another bureaucracy" in which the schools have to apply for grants. She said she doesn't understand why the commission isn't simply distributing the Impact Aid money on a per-pupil basis.

"I don't get why after all these 10-plus years we're just talking about piloting a (one-year) program," she said, emphasizing the need for a consistent revenue stream. "I don't really understand the need to take baby steps."

(SB 2516 would only apply to the 2014-15 school year.)

Ka Umeke's campus is a patchwork of portables and makeshift tents, along with some classrooms the school rents from a nearby elementary school. Lilly said she wholly supports the intent of the bills.

Meanwhile, some policymakers are wary of setting aside the money for facilities because they believe the proposals are premature given that many questions remain unanswered, such as how can public dollars be used to subsidize campus improvements on private land. They point out that regular public schools are struggling, too, and that Hawaii spends less per student on school facilities than any other state.

Rep. Isaac Choy, who sits on the House Education Committee, said he wants every detail squared away before allocating money. He also pointed to the growth of the charter school system in recent years, saying he doesn't want to spur the creation of an additional public school bureaucracy. The state's charter school network grew from two schools to 33 schools in 18 years.

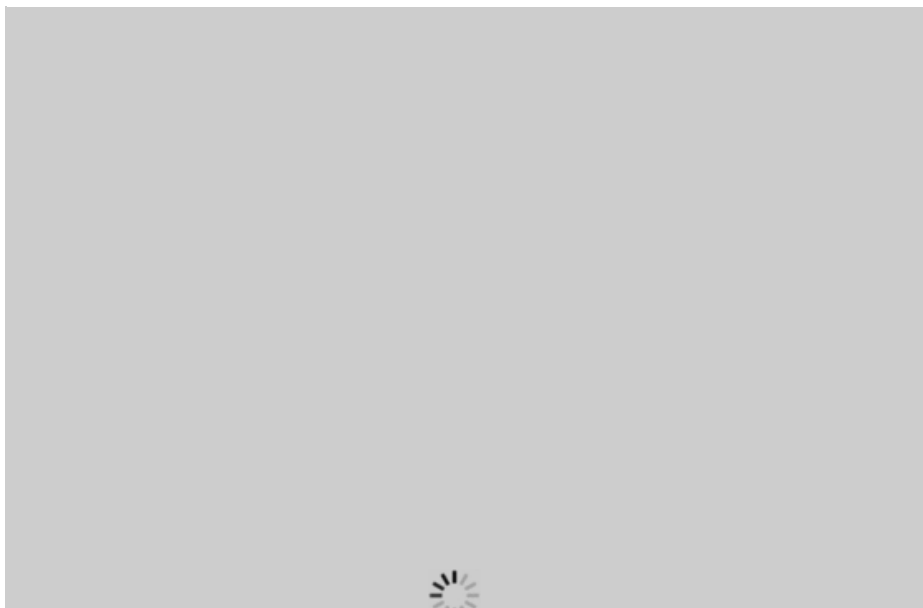
"If you keep on growing at that rate, you're going to have two DOEs," he said.

But Tokuda and Ito are confident that their legislation offers viable solutions and, if nothing else, it will provide a brainstorming vehicle that will ultimately help policymakers develop a framework that is legal, well-thought-out and secures charter schools the money they've long been waiting for.

"There's risk, yes, but there can be great reward," Tokuda said. "That's what's playing out here."

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AG's Opinion:



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Re: Use of Impact Aid for Facilities Pilot Program

Dear Mr. Thatcher and Mr. Hirakami:

This is in response to your December 24, 2013 letter to the Attorney General requesting answers to the following questions:

1. Does Act 159 of 2013 [Act 159, Session Laws of Hawaii 2013] give the Commission the authority to develop a "Facilities Pilot Program" with federal impact aid funds received from the State of Hawaii DOE?
2. Does the Commission have the authority to distribute federal impact aid funds in a manner that is not consistent with the manner in which federal impact aid funds are distributed to State of Hawaii DOE schools?

Upon review of the applicable law, our short response is that: (1) the Commission is not authorized to create a Facilities Pilot Program under HRS § 302D-E(e); and (2) the Commission may not use or distribute federal impact aid in a manner inconsistent with HRS §302A-1401.



Ag decision impact aid from Civil Beat

DISCUSSION: *What do you think about the legislation? Do you think charter schools should get money from the state for facilities?*

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