EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 12, 2006

The Honorable Calvin K. Y. Say, Speaker
and Members of the House of Representatives
Twenty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Re: Senate Bill No. 2719 SD2 HD1 CD1

On July 11, 2006, Senate Bill No. 2719, entitled "A Bill for an Act Relating to Education" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

Senate Bill 2719 makes various changes to the charter school law. My Administration supports charter schools and for the past two years we have introduced comprehensive legislation that would improve the environment for charter schools in Hawaii and empower charter schools with the tools they need for success. While well intentioned, Senate Bill 2719 falls short of implementing significant changes for charter schools.

This measure creates a charter school review panel to review charter applications and make recommendations to the State Board of Education but gives no significant authority to the panel. The Board would continue to serve as the charter authorizer with the ability to issue and revoke charters. In contrast, I believe a strong charter school law would allow for multiple chartering authorities, including the University of Hawaii Board of Regents, other public entities, and non-profit agencies. Allowing multiple charter authorizers permits a broader range of paths to obtaining a charter and brings outside resources, expertise, and attention to help shepherd and oversee the charter school movement in the State. Along with oversight and management responsibilities, the panel should be recognized as a Local Education Agency and be allowed to receive federal funds on behalf of charter schools. Unfortunately, Senate Bill 2719 does not give the panel this status.

Second, this bill caps the number of conversion charter schools at 25 and provides restrictive criteria for the establishment of new start-up charter schools. I support a more flexible system that encourages new and conversion start up charter schools. As an alternative to completely removing any caps on charter schools, I proposed targeted expansion for the charter school community by allowing new charter start-ups for schools with an environmental curriculum. Neither of these proposals were considered or included by the Legislature in SB 2719.

Senate Bill No. 2719 states that the Executive Director of the Charter School Administrative Office (CSAO) operates under the direction of the Board of Education (BOE), and in consultation with the charter schools. This continues the confusion and current challenge for the CSAO in determining whom they are accountable to--the BOE, or the charter schools. Further, it places the CSAO Executive Director in a conflicted position since this bill directs the Executive Director to work under the direction of the BOE, provide "...independent analysis and recommendation on charter school issues," and represent charter schools and the charter school system in communications with the BOE, Governor, and Legislature.

This bill clarifies that the local school board shall be responsible for the financial and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and State laws. However, I have repeatedly proposed that local school boards be allowed to negotiate master collective bargaining agreements. The Task Force on Charter School Governance Final Report (December 21, 2005) documents that a majority of task force members voted to remove charters from collective bargaining. This measure ignores these recommendations.

As a matter of policy, I believe in giving charter schools the choice to bargain collectively under Chapter 377 (Hawaii Labor Relations Act), Hawaii Revised Statutes. I am concerned that local school boards are not included in the definitions established in our collective bargaining laws, 89-6(d), HRS, as a "employer." New century charter schools employees will be bound to collective bargaining agreements which they did not negotiate and which were not negotiated with the charter school's interests in mind.

For two years, I have proposed including facilities maintenance costs in the per-pupil funding amount and basing the entire per pupil funding on the most recently enacted Department of Education budget, not the Consolidated Annual Financial Report (CAFR). Data from the CAFR is two years old. Neither of these changes is included in Senate Bill 2719. While this measure allows the Legislature to appropriate additional funds for facility costs, by not including the dollars in a per pupil formula, Hawaii cannot access federal monies that would provide an $8 to $1 match in facilities funding.

This measure requires charter schools to be eligible for all federal financial support to the same extent as all other public schools. The Attorney General has pointed out that State law cannot unilaterally make charter schools eligible for federal funding. As stated earlier, a charter Local Education Agency needs to be designated to make this provision viable.

I have proposed for the last two years that extra-curricular activities such as debate, clubs, theatre, and dance should be included as activities that charter school students are entitled to participate in. Senate Bill 2719 only allows charter school students to participate in sports within their school complex.

This bill alone will not accomplish the goal of improving the charter school system in Hawaii. It will be incumbent upon the Legislature to remedy the aforementioned shortcomings of this measure with legislation that further empowers, expands, and supports the charter school system.

For the foregoing reasons, I allowed Senate Bill No. 2719 to become law as Act 298 effective July 11, 2006 without my signature.

Sincerely,

LINDA LINGLE