

Report Title:

Education; Charter Schools

Description:

Omnibus charter schools bill. Adopts many of the priority proposals developed by the Task Force on Charter School Governance that was established by Act 87, Session Laws of Hawaii 2005. (HB2962 HD1)



A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The purpose of this Act is to improve Hawaii's
3 charter school system by adopting many of the priority proposals
4 developed by the task force on charter school governance
5 established by Act 87, Session Laws of Hawaii 2005, including:

6 (1) Providing consistency and clarity for statutes
7 relating to the administration and governance of
8 charter schools by recodifying and reorganizing the
9 statutes into a new chapter;

10 (2) Renaming new century charter schools and new century
11 conversion charter schools as "charter schools" and
12 "conversion charter schools", respectively;

13 (3) Clarifying that conversion charter schools fall under
14 the category of "charter schools" but distinguishing
15 between the procedures for establishing charter
16 schools and conversion charter schools by creating
17 separate sections for each;



- 1 (4) Providing that conversion charter schools may be a new
2 school consisting of programs or sections of existing
3 public school populations that are part of a separate
4 Hawaiian language immersion program and using existing
5 public school facilities;
- 6 (5) Renaming the charter school review panel as the
7 charter school authorization panel, expanding its
8 membership, and assigning it the role of charter
9 school authorizer;
- 10 (6) Setting minimum and maximum limits on the amount a
11 nonprofit organization can contribute annually per
12 pupil, toward the operation of a conversion charter
13 school;
- 14 (7) Clarifying and enhancing the powers and duties of the
15 charter schools administrative office and its
16 executive director;
- 17 (8) Empowering the local school boards of the charter
18 schools to negotiate memorandum of agreements of
19 supplemental collective bargaining agreements with the
20 exclusive representatives of their employees;
- 21 (9) Allowing civil service employees of a conversion
22 charter school to retain their civil service status in



1 the department of education human resources civil
2 service system; and

3 (10) Amending other parts of the Hawaii Revised Statutes to
4 maintain consistency with the provisions of the new
5 chapter relating to charter schools.

6 SECTION 2. The Hawaii Revised Statutes is amended by
7 adding a new chapter to read as follows:

8 **"CHAPTER 302B**

9 **CHARTER SCHOOLS**

10 **§302B-1 Purpose.** The purpose of this chapter is to
11 authorize the establishment of a charter school system and set
12 forth standards for the governance, administration, support,
13 financing, autonomy, and accountability for charter schools,
14 including new charter schools and conversion charter schools.

15 The charter school system is an important complement to the
16 department of education's school system, one that empowers local
17 school boards and their charter schools by allowing more
18 autonomy and flexibility and placing greater responsibility at
19 the school level. The charter school system is made up of the
20 board of education, charter school administrative office,
21 charter school authorization panel, and individual charter



1 schools with differing visions, missions, and approaches meeting
2 the various needs and desires of Hawaii's communities.

3 The purposes of the charter school system include but are
4 not limited to:

- 5 (1) Providing public school administrators, parents,
6 students, and teachers with expanded choices in types
7 of schools, educational programs, educational
8 opportunities, services for underserved populations,
9 and in settings, geographical areas, and communities;
10 and
- 11 (2) Encouraging and, when resources and support are
12 provided, serving as a research venue for the
13 development, use, and dissemination of alternative and
14 innovative approaches to educational governance,
15 financing, administration, curricula, technology, and
16 teaching strategies.

17 **§302B-2 Definitions.** Whenever used in this chapter,
18 unless the context otherwise requires:

19 "Authorizer" means a board, panel, or agency designated by
20 the legislature with the powers and duties to:

- 21 (1) Review applications for new charter schools;
22 (2) Issue new charters;



- 1 (3) Ensure that detailed implementation plans and
2 performance contracts are designed to maximize school
3 financial and academic success;
- 4 (4) Periodically review existing charter school
5 operations;
- 6 (5) Renew charters;
- 7 (6) Adopt administrative rules, policies, and guidelines;
- 8 (7) Assist and support charter schools;
- 9 (8) Facilitate needed training; and
- 10 (9) If necessary, revoke a charter.

11 "Charter school" refers to those public schools holding
12 charters to operate as charter schools, including conversion
13 charter schools, and that have the flexibility to implement
14 alternative frameworks with regard to curriculum, facilities
15 management, instructional approach, length of the school day,
16 week, or year, and personnel management.

17 "Charter school authorization panel" means the panel
18 established in section 302B-4, that has the powers and duties of
19 a charter school authorizer.

20 "Conversion charter school" means:



- 1 (1) Any existing department of education school that
2 converts to a charter school and is managed and
3 operated in accordance with section 302B-6;
- 4 (2) Any existing department of education school that
5 converts to a charter school and is managed and
6 operated by a nonprofit organization in accordance
7 with section 302B-6; or
- 8 (3) A newly created school, consisting of programs or
9 sections of existing public school populations that
10 are part of a separate Hawaiian language immersion
11 program and using existing public school facilities.

12 "Department" means the department of education.

13 "Detailed implementation plan" means a performance contract
14 between the authorizer of a charter school and the charter
15 school in which the rights, duties, responsibilities, collective
16 bargaining role, support, resources, and expectations of the
17 authorizer, other state agencies, and the charter school are
18 identified.

19 "Executive director" means the executive director of the
20 charter school administrative office.

21 "Local school board" means the autonomous governing body of
22 a charter school that receives the charter and is responsible



1 for the financial and academic viability of the charter school,
2 implementation of the charter, the organization and management
3 of the school, the curriculum, and compliance with applicable
4 federal and state laws. The local school board shall have the
5 power to negotiate supplemental or second-tier collective
6 bargaining agreements with exclusive representatives of their
7 employees.

8 "Nonprofit organization" means a private, nonprofit, tax-
9 exempt entity that:

- 10 (1) Is recognized as a tax-exempt organization under
11 Section 501(c)(3) of the Internal Revenue Code of
12 1986, as amended;
- 13 (2) Is domiciled in this state; and
- 14 (3) Makes a minimum annual contribution of \$1 per pupil
15 toward the operation of a conversion charter school
16 for every \$4 per pupil allocated by the charter school
17 administrative office for the operation of the
18 conversion charter school.

19 "Office" means the charter school administrative office.

20 "Organizational viability" means that a charter school:

- 21 (1) Has been duly constituted in accordance with its
22 charter;



- 1 (2) Has a local school board established in accordance
2 with law and its charter;
- 3 (3) Employs sufficient faculty and staff to provide the
4 necessary educational program and support services and
5 to operate the facility in accordance with its
6 charter;
- 7 (4) Maintains accurate and comprehensive records regarding
8 students and employees as determined by the charter
9 school administrative office;
- 10 (5) Meets appropriate standards of student achievement;
- 11 (6) Cooperates with charter school authorization panel
12 requirements in conducting its function as charter
13 authorizer;
- 14 (7) Complies with applicable federal, state, and county
15 laws and requirements;
- 16 (8) In accordance with the charter school administrative
17 office guidelines and procedures, is financially sound
18 and fiscally responsible in its use of public funds,
19 maintains accurate and comprehensive financial
20 records, operates in accordance with generally
21 accepted accounting practices, and maintains a sound
22 financial plan;



1 (9) Operates within the scope of its charter and fulfills
2 obligations and commitments of its charter;

3 (10) Complies with all health and safety laws and
4 requirements; and

5 (11) Complies with all charter school administrative office
6 directives, policies, and procedures.

7 "Panel" means the charter school authorization panel.

8 **§302B-3 Existing charter schools.** Any charter school or
9 conversion charter school holding a charter to operate under
10 part IV, subpart D, of chapter 302A as that subpart existed
11 before the effective date of this Act shall be considered a
12 charter school for the purposes of this chapter.

13 **§302B-4 Charter school authorization panel; establishment;
14 powers and duties.** (a) There is established the charter school
15 authorization panel, which shall be placed within the charter
16 school administrative office for administrative purposes only.
17 The panel shall serve as the charter school authorizer.

18 (b) The panel shall consist of nine members, including not
19 less than:

20 (1) Two licensed teachers regularly engaged in teaching;

21 (2) Two educational officers;



1 (3) One member or former member of a charter school local
2 school board;

3 (4) The chairperson of the board of education or the
4 chairperson's designee;

5 (5) The executive director of the charter school
6 administrative office or the executive director's
7 designee;

8 (6) A representative of independent schools; and

9 (7) The dean of the University of Hawaii college of
10 education or the dean's designee.

11 (c) Except for the chairperson of the board of education,
12 the executive director, and the dean of the college of
13 education, the governor shall appoint the members of the panel
14 pursuant to section 26-34, from a list of qualified nominees
15 submitted to the governor by the charter schools, agencies, and
16 organizations representative of the constituencies of the panel.
17 To the extent possible, the panel membership shall include
18 members from all islands.

19 (d) Appointed panel members shall serve not more than
20 three consecutive three-year terms; provided that the initial
21 terms of the appointed members that commence after June 30,
22 2006, shall be staggered, as follows:



1 (1) Three members to serve three-year terms;

2 (2) Two members to serve two-year terms; and

3 (3) One member to serve a one-year term.

4 (e) Panel members shall receive no compensation. When
5 panel duties require that a panel member take leave of the panel
6 member's duties as a state employee, the appropriate state
7 department shall allow the panel member to be placed on
8 administrative leave with pay and shall provide substitutes,
9 when necessary, to perform that panel member's duties. Panel
10 members shall be reimbursed for necessary travel expenses
11 incurred in the conduct of official panel business.

12 (f) The panel shall establish operating rules which shall
13 include conflict of interest provisions for members whose school
14 of employment or local school board membership are before the
15 panel.

16 (g) The chairperson of the panel shall be designated by
17 the members of the panel.

18 (h) The powers and duties of the panel shall be to:

19 (1) Review applications for new charter schools;

20 (2) Issue new charters;



- 1 (3) Ensure that charters and performance contracts are
2 designed to maximize school financial and academic
3 success and long term organizational viability;
- 4 (4) Adopt reporting requirements for charter schools;
- 5 (5) Periodically review existing charter school
6 operations, and approve significant amendments to the
7 charter;
- 8 (6) Respond to annual self-evaluation reports from charter
9 schools;
- 10 (7) Provide an annual report to the board of education,
11 the legislature, and the charter schools no later than
12 March 1 of each year;
- 13 (8) Adopt operating procedures and administrative rules,
14 policies, and guidelines;
- 15 (9) Develop procedures for the closing of a charter school
16 and the transfer of appropriate assets to the State;
17 and
- 18 (10) If necessary, revoke a charter.
- 19 (i) The charter school administrative office shall provide
20 for the staff support and expenses of the panel.
- 21 (j) The panel may adopt administrative rules in accordance
22 with chapter 91 to implement this chapter.



1 (k) The panel shall be exempt from chapter 92, but shall
2 adopt policies to facilitate transparency, openness, public
3 decision making, and participation, including the timely posting
4 of agendas and documents for action on the Internet at least one
5 week before meetings, notification of interested parties, and
6 timely posting of minutes.

7 **§302B-5 Charter schools; establishment.** (a) New charter
8 schools, except for conversion charter schools, may be
9 established pursuant to this section. Up to a total of twenty-
10 three schools may be established as charter schools.

11 (b) Any community, group of teachers, group of teachers
12 and administrators, or entity recognized as a nonprofit
13 organization under Section 501(c)(3) of the Internal Revenue
14 Code of 1986, as amended, may submit a letter of intent to the
15 charter school authorization panel to form a charter school,
16 establish a local school board as its governing body, and
17 develop a detailed implementation plan pursuant to subsection
18 (c).

19 (c) The local school board, with the support and guidance
20 of the executive director, shall formulate and develop a
21 detailed implementation plan that meets the requirements of this



1 subsection and section 302B-10. The plan shall include the
2 following:

3 (1) A description of employee rights and management issues
4 and a framework for addressing those issues that
5 protects the rights of employees;

6 (2) A plan for identifying, recruiting, and retaining
7 highly-qualified instructional faculty;

8 (3) A plan for identifying, recruiting, and selecting
9 students that is not exclusive, elitist, or
10 segregationist;

11 (4) The curriculum and instructional framework to be used
12 to achieve student outcomes, including an assessment
13 plan;

14 (5) A comprehensive plan for the assessment of student,
15 administrative support, and teaching personnel
16 performance that:

17 (A) Recognizes the interests of the general public;

18 (B) Incorporates or exceeds the educational content
19 and performance standards developed by the
20 department of education for the public school
21 system;



- 1 (C) Includes a system of faculty and staff
2 accountability that holds faculty and staff both
3 individually and collectively accountable for
4 their performance, and that is at least
5 equivalent to the average system of
6 accountability in public schools throughout the
7 state; and
- 8 (D) Provides for program audits and annual financial
9 audits;
- 10 (6) A governance structure for the school that
11 incorporates a conflict of interest policy and a plan
12 for periodic training of local school board members;
- 13 (7) A financial plan based on the most recent fiscal
14 year's per-pupil charter school allocation that
15 demonstrates the ability to meet the financial
16 obligations of one-time, start-up costs and ongoing
17 costs such as monthly payrolls, faculty recruitment,
18 professional development, and facilities costs; and
- 19 (8) A plan for any necessary design, construction,
20 renovation, and management of facilities that is
21 consistent with the state facilities plan; provided
22 that:



1 (A) If the facilities management plan includes use of
2 existing school facilities, the charter school
3 shall receive authorization from the
4 administrator responsible for the facilities; and

5 (B) The final determination of use shall fall within
6 the board of education's discretion.

7 (d) The detailed implementation plan shall be submitted to
8 the panel. The panel shall have sixty working days to review
9 the completed implementation plan for a proposed charter school
10 to ensure that it meets the requirements of subsection (c) and
11 section 302B-10. Within forty-five working days, the panel
12 shall issue a report of its preliminary findings to the board of
13 education and the local school board.

14 If the panel determines that the implementation plan:

15 (1) Meets the requirements of subsection (c) and section
16 302B-10, the panel, by the sixtieth working day, may
17 issue a charter to the proposed charter school. The
18 implementation plan shall be converted to a written
19 performance contract between the school and the panel;
20 provided that if the panel does not issue a charter,
21 the panel shall:



1 (A) Clearly identify its reasons for not issuing the
2 charter; and

3 (B) Allow the local school board to revise its plan,
4 in accordance with the panel's reasons for
5 rejecting the plan, and resubmit the amended
6 plan;

7 or

8 (2) Fails to meet the requirements of subsection (c) and
9 section 302B-10, the panel:

10 (A) Shall notify the local school board of the
11 finding in writing to enable the local school
12 board to appropriately amend the plan to address
13 the findings; and

14 (B) May issue a provisional approval for a charter if
15 the panel determines that the applicant may
16 reasonably be expected to expeditiously resolve
17 any remaining findings impeding the issuance of a
18 charter. The provisional approval shall be
19 effective for one year. The panel may extend the
20 provisional approval beyond a period of one year.

21 (e) An amended implementation plan shall be submitted
22 within thirty working days of notification pursuant to



1 subsection (d)(2)(A). The panel shall deny the issuance of a
2 charter if the local school board does not submit an amended
3 implementation plan within the thirty working day period. The
4 panel shall have thirty working days to review the amended
5 implementation plan. If the amended implementation plan:

6 (1) Meets the requirements of subsection (c) and section
7 302B-10, the panel, by the thirtieth working day,
8 shall issue a charter to the proposed charter school.

9 If a charter is issued, the amended implementation
10 plan shall be converted to a written performance
11 contract between the school and the panel; or

12 (2) Fails to address the findings to the panel's
13 satisfaction, the panel shall deny issuance of a
14 charter.

15 (f) A local school board may file an appeal of the denial
16 of an application for a charter with the board of education.

17 Upon filing an appeal, the panel shall forward the
18 implementation plan and appropriate documentation of the appeal
19 to the board of education. Within thirty working days, the
20 board of education shall issue a report of its findings and
21 final determination to the local school board. If the
22 implementation plan is approved by the board of education, the



1 panel shall issue a charter and the implementation plan shall be
2 converted to a written performance contract between the school
3 and the panel.

4 **§302B-6 Conversion charter schools; establishment.** (a)

5 Conversion charter schools may be established by the charter
6 school authorization panel pursuant to this section.

7 (b) Any group of teachers, group of teachers and
8 administrators, or entity recognized as a nonprofit organization
9 under Section 501(c)(3) of the Internal Revenue Code of 1986, as
10 amended, may submit a letter of intent to the panel to convert a
11 departmental school to a charter school, establish a local
12 school board as its governing body, and develop a detailed
13 implementation plan pursuant to subsection (c).

14 (c) The local school board, with the support and guidance
15 of the executive director, shall formulate and develop a
16 detailed implementation plan that meets the requirements of this
17 subsection and section 302B-10. The plan shall include:

- 18 (1) A description of employee rights and management issues
19 and a framework for addressing those issues that
20 protects the rights of employees;
- 21 (2) A plan for identifying, recruiting, and retaining
22 highly-qualified instructional faculty;



- 1 (3) A plan for identifying, recruiting, and selecting
2 students that is not exclusive, elitist, or
3 segregationist;
- 4 (4) The curriculum and instructional framework to be used
5 to achieve student outcomes, including an assessment
6 plan;
- 7 (5) A comprehensive plan for the assessment of student,
8 administrative support, and teaching personnel
9 performance that:
- 10 (A) Recognizes the interests of the general public;
- 11 (B) Incorporates or exceeds the educational content
12 and performance standards developed by the
13 department of education for the public school
14 system;
- 15 (C) Includes a system of faculty and staff
16 accountability that holds faculty and staff both
17 individually and collectively accountable for
18 their performance, and that is at least
19 equivalent to the average system of
20 accountability in public schools throughout the
21 state; and



- 1 (D) Provides for program audits and annual financial
2 audits;
- 3 (6) A governance structure for the school that
4 incorporates a conflict of interest policy and a plan
5 for periodic training of local school board members;
- 6 (7) A financial plan based on the most recent fiscal
7 year's per-pupil charter school allocation that
8 demonstrates the ability to meet the financial
9 obligations of one-time, start-up costs and ongoing
10 costs such as monthly payrolls, faculty recruitment,
11 professional development, and facilities costs; and
- 12 (8) A plan for any necessary design, construction,
13 renovation, and management of facilities that is
14 consistent with the state facilities plan; provided
15 that:
- 16 (A) If the facilities management plan includes use of
17 existing school facilities, the conversion
18 charter school shall receive authorization from
19 the administrator responsible for the facilities;
20 and
- 21 (B) The final determination of use shall fall within
22 the board of education's discretion.



1 (d) The detailed implementation plan shall be submitted to
2 the panel. The panel shall have sixty working days to review
3 the completed implementation plan for a proposed conversion
4 charter school to ensure that it meets the requirements of
5 subsection (c) and section 302B-10. Within forty-five working
6 days, the panel shall issue a report of its preliminary findings
7 to the board of education and the local school board.

8 If the panel determines that the implementation plan:

9 (1) Meets the requirements of subsection (c) and section
10 302B-10, the panel, by the sixtieth working day, may
11 issue a charter to the proposed conversion charter
12 school. The implementation plan shall be converted to
13 a written performance contract between the school and
14 the panel; provided that if the panel does not issue a
15 charter, the panel shall:

16 (A) Clearly identify its reasons for not issuing the
17 charter; and

18 (B) Allow the local school board to revise its plan,
19 in accordance with the panel's reasons for
20 rejecting the plan, and resubmit the amended
21 plan;

22 or



1 (2) Fails to meet the requirements of subsection (c) and
2 section 302B-10, the panel:

3 (A) Shall notify the local school board of the
4 finding in writing to enable the local school
5 board to appropriately amend the plan to address
6 the findings; and

7 (B) May issue a provisional approval for a charter if
8 the panel determines that the applicant may
9 reasonably be expected to expeditiously resolve
10 any remaining findings impeding the issuance of a
11 charter. The provisional approval shall be
12 effective for one year. The panel may extend the
13 provisional approval beyond a period of one year.

14 (e) An amended implementation plan shall be submitted
15 within thirty working days of notification pursuant to
16 subsection (d)(2)(A). The panel shall deny the issuance of a
17 charter if the local school board does not submit an amended
18 implementation plan within the thirty working day period. The
19 panel shall have thirty working days to review the amended
20 implementation plan. If the amended implementation plan:

21 (1) Meets the requirements of subsection (c) and section
22 302B-10, the panel, by the thirtieth working day,



1 shall issue a charter to the proposed conversion
2 charter school. If a charter is issued, the amended
3 implementation plan shall be converted to a written
4 performance contract between the school and the panel;
5 or

6 (2) Fails to address the findings to the panel's
7 satisfaction, the panel shall deny issuance of a
8 charter.

9 (f) A local school board may file an appeal of the denial
10 of an application for a charter with the board of education.
11 Upon filing an appeal, the panel shall forward the
12 implementation plan and appropriate documentation of the appeal
13 to the board of education. Within thirty working days, the
14 board of education shall issue a report of its findings and
15 final determination to the local school board. If the
16 implementation plan is approved by the board of education, the
17 panel shall issue a charter and the implementation plan shall be
18 converted to a written performance contract between the school
19 and the panel.

20 (g) A nonprofit organization may submit a letter of intent
21 to the charter school administrative office to convert a
22 department of education school to a charter school, operate and



1 manage the school, establish a local school board as its
2 governing body, and develop a detailed implementation plan
3 pursuant to subsection (c); provided that:

4 (1) The local school board as the governing body of the
5 conversion charter school shall be composed of the
6 board of directors of the nonprofit organization and
7 not the participants specified in section 302B-8. The
8 nonprofit organization may also appoint advisory
9 panels of community representatives for each school
10 managed by the organization, with whom the
11 organization may consult; provided that these panels
12 shall not have governing authority over the school and
13 shall serve only in an advisory capacity to the
14 nonprofit organization;

15 (2) The detailed implementation plan for each conversion
16 charter school to be operated by the nonprofit
17 organization shall be formulated, developed, and
18 submitted by the nonprofit organization, and shall be
19 approved by a majority of the votes cast by existing
20 administrative, support, and teaching personnel, and
21 parents of the students of the proposed conversion
22 charter school; provided that the school personnel may



- 1 request their collective bargaining unit
2 representative to certify and conduct the elections
3 for their respective bargaining units;
- 4 (3) After the detailed implementation plan for a
5 conversion charter school operated and managed by the
6 nonprofit organization has been approved by the panel
7 as provided in subsection (d) or (e), the panel shall
8 issue a charter, and the implementation plan shall be
9 converted to a written performance contract between
10 the nonprofit organization and the panel, under which
11 the conversion charter school shall be managed and
12 operated as a division of the nonprofit organization
13 and shall have the same relationship with the charter
14 school administrative office as any other local school
15 board for a charter school;
- 16 (4) The board of directors of the nonprofit organization,
17 as the governing body for the conversion charter
18 school that it operates and manages, shall have the
19 same protections that are afforded to the state board
20 of education;
- 21 (5) Any conversion charter school that is managed and
22 operated by a nonprofit organization shall be eligible



1 for the same federal and state funding as other public
2 schools; provided that the nonprofit organization
3 makes a minimum annual contribution of \$1 per pupil
4 toward the operation of a conversion charter school
5 for every \$4 per pupil allocated by the charter school
6 administrative office for the operation of the charter
7 school; provided further that the maximum annual
8 contribution from the nonprofit organization may but
9 shall not be required to exceed \$1,500 per pupil per
10 year; provided further that the nonprofit organization
11 may allocate federal and state funds among two or more
12 of the conversion charter schools that it operates and
13 manages to the extent permitted by law;

14 (6) If, at any time, the board of directors of the
15 nonprofit organization governing the conversion
16 charter school votes to discontinue its relationship
17 with the charter school, the charter school may submit
18 an application to the panel to continue as a
19 conversion school without the participation of the
20 nonprofit organization; and

21 (7) If, at any time, the conversion charter school
22 dissolves or the charter is revoked, the State shall



1 have first right, at no cost to the State, to all the
2 assets and facilities of the conversion charter
3 school, except as provided in the detailed
4 implementation plan.

5 (h) Any nonprofit organization that seeks to manage or
6 operate a conversion charter school as provided in subsection

7 (g) shall comply with the following at the time of application:

8 (1) Have bylaws or policies that describe the manner in
9 which business is conducted and policies that relate
10 to the management of potential conflict of interest
11 situations;

12 (2) Have experience in the management and operation of
13 public or private schools, or, to the extent
14 necessary, agree to obtain appropriate services from
15 another entity or entities possessing such experience;

16 (3) Comply with all applicable federal, state, and county
17 laws, including licensure or accreditation, as
18 applicable; and

19 (4) Comply with any other requirements prescribed by the
20 department of education to ensure adherence with
21 applicable federal, state, and county laws and the
22 purposes of this chapter.



1 (i) Any public school or schools, programs, or sections of
2 existing public school populations that are part of a separate
3 Hawaiian language immersion program and using existing public
4 school facilities may submit a letter of intent to the panel to
5 form a conversion charter school, establish a local school board
6 as its governing body, and develop a detailed implementation
7 plan pursuant to subsection (c). The detailed implementation
8 plan shall be approved by a majority of the votes cast by
9 existing administrative, support, and teaching personnel, and
10 parents of students at the proposed conversion charter school;
11 provided that the school personnel may request their collective
12 bargaining unit representative to certify and conduct the
13 elections for their respective bargaining units.

14 (j) Unless otherwise provided in this section, the
15 provisions in this chapter, as they relate to charter schools,
16 shall apply to conversion charter schools. In the event of a
17 conflict between the provisions in this section and other
18 provisions in this chapter, this section shall control.

19 **§302B-7 Charter school local school boards; powers and**
20 **duties.** (a) All charter school local school boards, with the
21 exception of those of conversion charter schools pursuant to



1 section 302B-6(g), shall be composed of, at a minimum, one
2 representative from each of the following participant groups:

3 (1) Principals;

4 (2) Instructional staff members selected by the school
5 instructional staff;

6 (3) Support staff selected by the support staff of the
7 school;

8 (4) Parents of students attending the school selected by
9 the parents of the school;

10 (5) Student body representatives selected by the students
11 of the school; and

12 (6) The community at large.

13 (b) No chief executive officer, chief administrative
14 officer, executive director, or otherwise designated head of a
15 school may serve as the chair of the local school board.

16 (c) The local school board shall be the autonomous
17 governing body of a charter school that receives the charter and
18 shall be responsible for the financial and academic viability of
19 the charter school, implementation of the charter, the
20 organization and management of the school, the curriculum, and
21 compliance with applicable federal and state laws. The local
22 school board shall have the power to negotiate supplemental or



1 second-tier collective bargaining agreements with exclusive
2 representatives of their employees.

3 (d) The State shall afford the local school board of any
4 charter school the same protections as the State affords to the
5 board of education.

6 **§302B-8 Charter school administrative office.** (a) There
7 is established a charter school administrative office, which
8 shall be attached to the department for administrative purposes
9 only. The office shall be administered by an executive
10 director, who shall be appointed without regard to chapters 76
11 and 89 by the board of education based upon the recommendations
12 of an organization of charter schools operating within the state
13 or from a list of nominees submitted by the charter schools.
14 The board of education may hire the executive director on a
15 multi-year contract. The executive director may hire necessary
16 staff without regard to chapters 76 and 89 to assist in the
17 administration of the office.

18 (b) The executive director, under the direction of the
19 board of education and charter schools, shall be responsible for
20 the internal organization, operation, and management of the
21 charter school system, including:



- 1 (1) Preparation and execution of the budget for the
2 charter schools, including submission of the budget
3 request to the board of education, the governor, and
4 the legislature;
- 5 (2) Allocation of annual appropriations to the charter
6 schools and distribution of federal funds to charter
7 schools;
- 8 (3) Compliance with applicable state laws related to the
9 administration of the charter schools;
- 10 (4) Preparation of contracts between the charter schools
11 and the department of education for centralized
12 services to be provided by the department;
- 13 (5) Preparation of contracts between the charter schools
14 and other state agencies for financial or personnel
15 services to be provided by such agencies to the
16 charter schools;
- 17 (6) Representation of charter schools in communications
18 with the board of education, the governor, and the
19 legislature;
- 20 (7) Supporting the development, growth, and progress of
21 charter schools;
- 22 (8) Convening and serving as a member of the panel;



1 (9) Establishing a dispute resolution and mediation panel;
2 and

3 (10) Upon request by one or more charter schools, assisting
4 in the negotiation of a collective bargaining
5 agreement with the exclusive representative of its
6 employees.

7 (c) The executive director shall be evaluated annually
8 through a process jointly agreed upon by the Hawaii charter
9 schools network and the board of education.

10 (d) The salary of the executive director and staff shall
11 be set by the board of education based upon the recommendations
12 of an organization of charter schools within the state; provided
13 that the salaries and operational expenses of the charter school
14 administrative office shall be paid from the annual charter
15 school appropriation and shall not exceed two per cent of the
16 total allocation in any fiscal year.

17 (e) The charter school administrative office shall include
18 in its annual budget request additional funds to cover the
19 estimated costs of:

20 (1) Vacation and sick leave accrued by employees
21 transferring to a charter school from another state
22 agency or department;



1 (2) The cost of substitute teachers needed when a teacher
2 is out on vacation or sick leave;

3 (3) Adjustments to enrollments; and

4 (4) Costs associated with arbitration in the grievance
5 process.

6 (f) The charter school administrative office may withhold
7 funds for unauthorized charter school enrollments that are
8 inconsistent with approved detailed implementation plans.

9 (g) The charter school administrative office may carry
10 over funds from previous year allocations. Funds distributed to
11 charter schools shall be considered expended.

12 **§302B-9 Exemptions from state laws.** (a) Charter schools
13 shall be exempt from chapter 92 and all other state laws in
14 conflict with this chapter, except those regarding:

15 (1) Collective bargaining under chapter 89; provided that:

16 (A) The employees of charter schools shall be
17 assigned to an appropriate bargaining unit as
18 specified in section 89-6; provided further that
19 if a new century charter school employee's job
20 description contains the duties and
21 responsibilities of an employee that could be
22 assigned to more than one bargaining unit, the



1 duties and responsibilities that are performed by
2 the employee for the majority of the time, based
3 on the employee's average workweek, shall be the
4 basis of bargaining unit assignment for the
5 employee;

6 (B) For the purpose of negotiating a collective
7 bargaining agreement for charter schools
8 employees who are assigned to an appropriate
9 bargaining unit, the employer shall be determined
10 as provided in section 89-6(d);

11 (C) For the purpose of negotiating a memorandum of
12 agreement or a supplemental agreement that only
13 applies to employees of a charter school, the
14 employer shall mean the local school board,
15 subject to the conditions and requirements
16 contained in the applicable sections of this
17 chapter governing any memorandum of agreement or
18 supplemental agreement;

19 (D) Pursuant to chapter 89, the exclusive
20 representative shall mean the employee
21 organization certified by the Hawaii labor
22 relations board as the collective bargaining



1 agent to represent all employees in an
2 appropriate bargaining unit without
3 discrimination and without regard to employee
4 organization membership; and

5 (E) Negotiations over matters covered by this section
6 shall be conducted between the employer and
7 exclusive representative pursuant to this
8 chapter. Cost items that are appropriated for
9 and approved by the legislature and contained in
10 a collective bargaining agreement, memorandum of
11 agreement, or supplemental agreement covering,
12 wholly or partially, employees in charter schools
13 shall be allocated by the department of budget
14 and finance to the charter school administrative
15 office for distribution to charter schools.
16 However, if the charter school administrative
17 office deems it appropriate, the cost items may
18 be funded from a charter school's existing
19 allocation or other sources of revenue received
20 by a charter school;

21 (2) Discriminatory practices under section 378-2; and
22 (3) Health and safety requirements.



1 (b) Charter schools and the charter school administrative
2 office shall be exempt from county zoning ordinances.

3 (c) Charter schools and the charter school administrative
4 office shall be exempt from chapter 103D, but shall develop
5 internal policies and procedures for the procurement of goods,
6 services, and construction, consistent with the goals of public
7 accountability and public procurement practices. Charter
8 schools are encouraged to use the provisions of chapter 103D
9 where possible; provided that the use of one or more provisions
10 of chapter 103D shall not constitute a waiver of the exemption
11 from chapter 103D and shall not subject the charter school to
12 any other provision of chapter 103D. Charter schools shall
13 account for funds expended for the procurement of goods and
14 services, and this accounting shall be available to the public.

15 (d) Any charter school, prior to the beginning of the
16 school year, may enter into an annual contract with any
17 department for centralized services to be provided by the
18 department.

19 (e) Notwithstanding any law to the contrary, as public
20 schools and entities of the State, charter schools shall not
21 bring suit against any other entity or agency of the State.



1 **§302B-10 Civil service status; employee rights.** (a)
2 Civil service employees of department of education schools shall
3 retain their civil service status upon the conversion of their
4 school to a conversion charter school. Positions in a
5 conversion charter school that would be civil service in a
6 department of education public school, shall be civil service
7 positions and subject to chapter 76. An employee with civil
8 service status at a conversion charter school who transfers to
9 another civil service position shall be entitled to all of the
10 rights, privileges, and benefits of continuous, uninterrupted
11 civil service. Civil service employees of a conversion charter
12 school shall retain their civil service status in the department
13 of education human resources civil service system and shall be
14 entitled to all rights and benefits as other civil service
15 employees employed by the department of education. Exempt civil
16 service employees as provided in section 76-16(b) of a
17 conversion charter school shall retain their status in the
18 department of education human resources system for support
19 services personnel and shall be entitled to all rights and
20 benefits as other exempt civil service employees employed by the
21 department of education.



1 (b) The State shall afford administrative, support, and
2 instructional employees in charter schools full participation in
3 the State's systems for retirement, workers' compensation,
4 unemployment insurance, temporary disability insurance, and
5 health benefits in accordance with the qualification
6 requirements for each.

7 (c) The department, to the extent possible, shall provide
8 its position listings to the charter school administrative
9 office and any interested local school board of any charter
10 school.

11 (d) The department, in conjunction with the charter school
12 administrative office, shall facilitate and encourage the
13 movement of instructional personnel between the department and
14 charter schools; provided that:

15 (1) Comparable and verifiable professional development and
16 employee evaluation standards and practices, as
17 determined and certified by the charter school
18 administrative office, are in place in charter schools
19 for instructional staff;

20 (2) Licensed charter school teachers or highly qualified
21 individuals, as determined by the department, who are
22 not yet tenured in the department and are entering or



1 returning to the department after full-time employment
2 of no less than one full school year at a charter
3 school, shall be subject to no more than one year of
4 probationary status; and

5 (3) Tenured department licensed teachers or highly
6 qualified individuals, as determined by the
7 department, who transfer to charter schools shall not
8 be required to serve a probationary period.

9 **§302B-11 Administration of workers' compensation.** The
10 department of human resources development shall administer
11 workers' compensation claims for employees of charter schools,
12 who shall be covered by the same self-insured workers'
13 compensation system as other public employees. The department
14 of human resources development shall process, investigate, and
15 make payments on claims; provided that:

16 (1) Charter schools shall compile the preliminary claim
17 form and forward it to the department of human
18 resources development; and

19 (2) The department of human resources development shall
20 receive no more than 0.07 per cent of the EDN 600
21 appropriation to process these workers' compensation
22 claims.



1 **§302B-12 Funding and finance.** (a) Beginning with fiscal
2 year 2006-2007, and each fiscal year thereafter, the charter
3 school administrative office shall submit a request for general
4 fund appropriations for each charter school based upon:

5 (1) The actual and projected enrollment figures in the
6 current school year for each charter school;

7 (2) A per-pupil amount for each regular education and
8 special education student, which shall be equivalent
9 to the total per-pupil cost based upon average
10 enrollment in all cost categories, including
11 comprehensive school support services but excluding
12 special education services, and for all means of
13 financing except federal funds, as reported in the
14 most recently published department of education
15 consolidated annual financial report; provided that
16 the legislature may make an adjustment to the per-
17 pupil allocation for the purposes of this section; and

18 (3) Those fringe benefit costs requested shall be included
19 in the department of budget and finance's annual
20 budget request. No fringe benefit costs shall be
21 charged directly to or deducted from the charter
22 school per-pupil allocations.



1 The legislature shall make an appropriation based upon the
2 budget request; provided that the legislature may make
3 additional appropriations for fringe, workers' compensation, and
4 other employee benefits, facility costs, and other requested
5 amounts.

6 The governor, pursuant to chapter 37, may impose
7 restrictions or reductions on charter school appropriations
8 similar to those imposed on other public schools.

9 (b) Charter schools shall be eligible for all federal
10 financial support to the same extent as all other public
11 schools. The department shall provide the charter school
12 administrative office with all federal grant proposals that
13 include charter schools as potential recipients and timely
14 reports on federal grants received for which charter schools may
15 apply. Federal funds received by the department for charter
16 schools shall be transferred to the charter school
17 administrative office for distribution to charter schools in
18 accordance with the federal requirements. If administrative
19 services related to federal grants and subsidies are provided to
20 the charter school by the department, the charter school shall
21 reimburse the department for the actual costs of the
22 administrative services in an amount that shall not exceed six



1 and one-half per cent of the charter school's federal grants and
2 subsidies.

3 Any charter school shall be eligible to receive any
4 supplemental federal grant or award for which any other public
5 school may submit a proposal, or any supplemental federal grants
6 limited to charter schools; provided that if department
7 administrative services, including funds management, budgetary,
8 fiscal accounting, or other related services, are provided with
9 respect to these supplemental grants, the charter school shall
10 reimburse the department for the actual costs of the
11 administrative services in an amount that shall not exceed six
12 and one-half per cent of the supplemental grant for which the
13 services are used.

14 All additional funds that are generated by the local school
15 boards, not from a supplemental grant, shall be held separate
16 and apart from allotted funds and may be expended at the
17 discretion of the local school boards.

18 (c) To enable charter schools to access state funding
19 prior to the start of each school year, foster their fiscal
20 planning, and enhance their accountability, the charter school
21 administrative office shall:



1 (1) Provide fifty per cent of a charter school's per-pupil
2 allocation based on the charter school's projected
3 student enrollment no later than July 20 of each
4 fiscal year; provided that the charter school shall
5 submit to the charter school administrative office a
6 projected student enrollment no later than May 15 of
7 each year;

8 (2) Provide an additional forty per cent of a charter
9 school's per-pupil allocation no later than November
10 15 of each year; provided that the charter school
11 shall submit to the charter school administrative
12 office:

13 (A) Student enrollment as verified on October 15 of
14 each year; provided that the student enrollment
15 shall be verified on the last business day
16 immediately prior to October 15 should that date
17 fall on a weekend; and

18 (B) An accounting of the percentage of student
19 enrollment that transferred from public schools
20 established and maintained by the department;
21 provided that these accountings shall also be
22 submitted by the charter school administrative



1 office to the legislature no later than twenty
2 days prior to the start of each regular session;

3 and

4 (3) The remaining ten per cent per-pupil allocation of a
5 charter school no later than January 1 of each year as
6 a contingency balance to ensure fiscal accountability.

7 (d) The department shall provide appropriate transitional
8 resources to a conversion charter school for its first year of
9 operation as a charter school based upon the department's
10 allocation to the school for the year prior to the conversion.

11 (e) No new charter school or conversion charter school may
12 assess tuition.

13 **§302B-13 Weighted student formula.** (a) Notwithstanding
14 section 302B-12 and beginning on September 1, 2006, charter
15 schools shall elect whether to receive allocations according to
16 the department's weighted student formula adopted pursuant to
17 section 302A-1303.6; provided that:

18 (1) All charter schools, as a group, with each local
19 school board being accorded one vote, shall elect, by
20 greater than two-thirds agreement among the local
21 school boards, whether to receive allocations through
22 the department's weighted student formula;



1 (2) Any election by charter schools to receive department
2 allocations, or not to receive allocations, through
3 the department's weighted student formula shall be
4 made by September 1 of each even-numbered year, and
5 the election shall apply to the fiscal biennium
6 beginning July 1 of the following year; and

7 (3) The election to receive allocations, or not to receive
8 allocations, through the department's weighted student
9 formula shall be communicated to the department
10 through the charter school administrative office.

11 (b) The charter schools, through the charter school
12 administrative office, may propose to the board of education an
13 alternative weighted student formula, approved of by more than
14 two-thirds of the local school boards, with each local school
15 board being accorded one vote, to be administered by the charter
16 school administrative office and to apply to the per-pupil
17 allocation for charter schools.

18 **§302B-14 Accountability; probationary status; revocation**
19 **of charter.** (a) Every charter school shall conduct annual
20 self-evaluations that shall be submitted to the charter school
21 administrative office within sixty working days after the



1 completion of the school year. The self-evaluation process
2 shall include but not be limited to:

3 (1) The identification and adoption of benchmarks to
4 measure and evaluate administrative and instructional
5 programs;

6 (2) The identification of any administrative and legal
7 barriers to meeting the adopted benchmarks, and
8 recommendations for improvements and modifications to
9 address the barriers;

10 (3) An evaluation of student achievement within the
11 charter school;

12 (4) A profile of the charter school's enrollment and the
13 community it serves, including a breakdown of regular
14 education and special education students; and

15 (5) An evaluation of the school's organization viability.

16 (b) The charter school authorization panel shall conduct
17 multi-year evaluations of charter schools that have been
18 chartered for four or more years, and may conduct special
19 evaluations at any time. The panel shall adopt rules pursuant
20 to chapter 91 for its evaluations, including a schedule of such
21 evaluations.



1 (c) The panel may place a charter school on probationary
2 status based upon the findings of its evaluation; provided that:

3 (1) The charter school and the charter school
4 administrative office are involved in substantive
5 discussions with the panel regarding the evaluation;

6 (2) The notice of probation is delivered to the charter
7 school and specifies the deficiencies requiring
8 corrections, the probation period, and monitoring and
9 reporting requirements;

10 (3) For deficiencies related to student performance, a
11 charter school shall be allowed two years to improve
12 student performance; and

13 (4) For deficiencies related to financial plans, a charter
14 school shall be allowed one year to develop a sound
15 financial plan.

16 The charter school shall remain on probationary status
17 until the panel votes to either remove the charter school from
18 probationary status or revoke its charter.

19 The panel shall adopt administrative rules pursuant to
20 chapter 91 for placing charter schools on probation.

21 (d) If a charter school fails to resolve deficiencies by
22 the end of the probation period, the panel, by two-thirds vote,



1 may revoke the charter. The panel may revoke the charter for
2 serious student or employee health or safety deficiencies in
3 accordance with rules adopted by the panel; provided that:

4 (1) The charter school is given notice of specific health
5 or safety deficiencies and is afforded an opportunity
6 to present its case to the panel;

7 (2) The chairperson of the panel appoints a task group to
8 visit the charter school and conduct meetings with its
9 local school board and its school community to gather
10 input;

11 (3) Two-thirds of the panel vote to revoke the charter;

12 (4) The best interest of the school's students guide all
13 decisions; and

14 (5) After a decision to revoke a charter, the charter
15 school shall be allowed to remain open until a plan
16 for an orderly shut-down or transfer of students and
17 assets is developed and executed.

18 (e) If there is an immediate concern for student or
19 employee health or safety at a charter school, the panel, in
20 consultation with the charter school administrative office, may
21 adopt an interim restructuring plan that may include appointment
22 of an interim local school board, an interim local school board



1 chairperson, or a principal to temporarily assume operations of
2 the school.

3 (f) The executive director shall adopt administrative
4 rules to supplement accountability measures incorporated in the
5 written performance contracts required under sections 302B-5 and
6 302B-6.

7 (g) If, at any time, a charter school dissolves or the
8 charter is revoked, the State of Hawaii shall have first right,
9 at no cost to the State, to all the assets and facilities of the
10 charter school, except as otherwise provided by law.

11 **§302B-15 Responsibilities of department of education;**
12 **special education services.** (a) The department of education
13 shall collaborate with the charter school administrative office
14 to develop a system of technical assistance related to
15 compliance with federal and state laws and access to federal and
16 state funds. The department and the charter school
17 administrative office shall collaborate to develop a list of
18 central services that the department of education may offer for
19 purchase by a charter school at an annual cost to be negotiated
20 between an individual charter school and the department. The
21 department shall enter into a contract with a charter school to



1 provide these services, which shall be re-negotiated on an
2 annual basis.

3 (b) The department shall be responsible for the provision
4 of a free, appropriate public education. Any charter school
5 that enrolls special education students or identifies one of its
6 students as eligible for special education shall be responsible
7 for providing the educational and related services required by a
8 student's individualized education program. The programs and
9 services for the student shall be determined collaboratively by
10 the student's individualized education program team and the
11 student's parents or legal guardians.

12 If the charter school is unable to provide all of the
13 required services, then services to the student shall be
14 provided by the department in accordance with the student's
15 individualized educational program. The department shall
16 collaborate with the charter school administrative office to
17 develop guidelines related to the provision of special education
18 services and resources to each charter school. The department
19 shall review all of the current individualized education
20 programs of special education students enrolled in a charter
21 school and may offer staff, funding, or both, to the charter
22 school based upon a per-pupil weighted formula implemented by



1 unit as specified in section 89-6; provided that if a charter
2 school employee's job description contains the duties and
3 responsibilities of an employee that could be assigned to more
4 than one bargaining unit, the duties and responsibilities that
5 are performed by the employee for the majority of the time,
6 based on the employee's average workweek, shall be the basis of
7 bargaining unit assignment for the employee.

8 (b) For the purpose of negotiating a collective bargaining
9 agreement for charter schools employees who are assigned to an
10 appropriate bargaining unit, the employer shall be determined as
11 provided in section 89-6(d).

12 (c) For the purpose of negotiating a memorandum of
13 agreement or a supplemental agreement that only applies to
14 employees of a charter school, the employer shall mean the local
15 school board, subject to the conditions and requirements
16 contained in the applicable sections of this chapter governing
17 any memorandum of agreement or supplemental agreement.

18 (d) Pursuant to this chapter, the exclusive representative
19 shall mean the employee organization certified by the Hawaii
20 labor relations board as the collective bargaining agent to
21 represent all employees in an appropriate bargaining unit



1 without discrimination and without regard to employee
2 organization membership.

3 (e) Negotiations over matters covered by this section
4 shall be conducted between the employer and exclusive
5 representative pursuant to this chapter. Cost items that are
6 appropriated for and approved by the legislature and contained
7 in a collective bargaining agreement, memorandum of agreement,
8 or supplemental agreement covering, wholly or partially,
9 employees in charter schools shall be allocated by the
10 department of budget and finance to the charter school
11 administrative office for distribution to charter schools.
12 However, if the charter school administrative office deems it
13 appropriate, the cost items may be funded from a charter
14 school's existing allocation or other sources of revenue
15 received by a charter school."

16 SECTION 6. Section 26-35.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) For purposes of this section, "member" means any
19 person who is appointed, in accordance with the law, to serve on
20 a temporary or permanent state board, including members of the
21 local school board of any [~~new century~~] charter school
22 [~~established under section 302A-1182 or new century conversion~~]



1 ~~charter school]~~ established under [~~section 302A-1191,~~] chapter
2 302B, council, authority, committee, or commission, established
3 by law or elected to the board of education or the board of
4 trustees of the employees' retirement system under section 88-
5 24; provided that "member" shall not include any person elected
6 to serve on a board or commission in accordance with chapter 11
7 other than a person elected to serve on the board of education."

8 SECTION 7. Section 89-6, Hawaii Revised Statutes, is
9 amended by amending subsection (g) to read as follows:

10 "(g) The following individuals shall not be included in
11 any appropriate bargaining unit or be entitled to coverage under
12 this chapter:

13 (1) Elected or appointed official;

14 (2) Member of any board or commission; provided that
15 nothing in this paragraph shall prohibit a member of a
16 collective bargaining unit from serving on a local
17 school board of a charter school;

18 (3) Top-level managerial and administrative personnel,
19 including the department head, deputy or assistant to
20 a department head, administrative officer, director,
21 or chief of a state or county agency or major
22 division, and legal counsel;



- 1 (4) Secretary to top-level managerial and administrative
2 personnel under paragraph (3);
- 3 (5) Individual concerned with confidential matters
4 affecting employee-employer relations;
- 5 (6) Part-time employee working less than twenty hours per
6 week, except part-time employees included in
7 bargaining unit (5);
- 8 (7) Temporary employee of three months' duration or less;
- 9 (8) Employee of the executive office of the governor or a
10 household employee at Washington Place;
- 11 (9) Employee of the executive office of the lieutenant
12 governor;
- 13 (10) Employee of the executive office of the mayor;
- 14 (11) Staff of the legislative branch of the State;
- 15 (12) Staff of the legislative branches of the counties,
16 except employees of the clerks' offices of the
17 counties;
- 18 (13) Any commissioned and enlisted personnel of the Hawaii
19 national guard;
- 20 (14) Inmate, kokua, patient, ward, or student of a state
21 institution;
- 22 (15) Student help;



- 1 (16) Staff of the Hawaii labor relations board;
- 2 (17) Employee of the Hawaii national guard youth challenge
- 3 academy; or
- 4 (18) Employees of the office of elections."

5 SECTION 8. Section 302A-101, Hawaii Revised Statutes, is

6 amended as follows:

7 1. By adding three new definitions to be appropriately

8 inserted and to read:

9 "Charter school administrative office" means the office

10 established in section 302B-8 responsible for the internal

11 organization, operation, and management of the charter school

12 system.

13 "Charter school authorization panel" means the panel

14 established in section 302B-4 that authorizes charter schools,

15 reviews charter school operations, and reviews or revokes

16 charters.

17 "Charter schools" means public schools holding charters to

18 operate as charter schools, as defined in chapter 302B."

19 2. By amending the definition of "public school" to read:

20 "Public school" means all academic and noncollege type

21 schools established and maintained by the department and [new



1 ~~century~~] charter schools chartered by the [~~board of education,~~
2 charter school authorization panel, in accordance with law."

3 3. By repealing the definition of "new century charter
4 schools".

5 [~~"New century charter schools" means public schools
6 chartered by the board of education with the flexibility to
7 implement alternative frameworks with regard to curriculum,
8 facilities management, instructional approach, length of the
9 school day, week, or year, and personnel management."~~]

10 SECTION 9. Section 302A-411, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The department shall establish and maintain junior
13 kindergartens and kindergartens with a program of instruction as
14 a part of the public school system; provided that:

15 (1) Attendance shall not be mandatory; and

16 (2) [~~New century charter~~] Charter schools [~~and new century
17 conversion charter schools~~] established under chapter
18 302B shall be excluded from mandatory participation in
19 the program."

20 SECTION 10. Section 302A-1124, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) The department, through the board and its
2 superintendent, shall establish a school community council
3 system under which each public school, excluding [~~new century~~]
4 charter schools [~~and new century conversion charter schools,~~]
5 established under chapter 302B, shall create and maintain a
6 school community council. Each school community council shall:

- 7 (1) Review and evaluate the school's academic plan and
8 financial plan, and either recommend revisions of the
9 plans to the principal, or recommend the plans for
10 approval by the complex area superintendent;
- 11 (2) Ensure that the school's academic and financial plans
12 are consistent with the educational accountability
13 system under section 302A-1004;
- 14 (3) Participate in principal selection and evaluation, and
15 transmit any such evaluations to the complex area
16 superintendent; and
- 17 (4) Provide collaborative opportunities for input and
18 consultation."

19 SECTION 11. Section 302A-1302, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§302A-1302 School-based budget flexibility.** (a)
22 Beginning with the 1995-1997 fiscal biennium, the department



1 shall implement school-based budget flexibility for schools,
2 complexes, and learning support centers. The flexibility shall
3 be limited to the school-based budgeting program EDN 100 of the
4 department for all schools except [~~new century~~] charter schools
5 [~~defined in section 302A-101 and new century conversion charter~~
6 ~~schools defined in section 302A-1191.~~] established under chapter
7 302B.

8 (b) Beginning in fiscal year [~~2004-2005,~~] 2006-2007, and
9 every year thereafter, the charter school administrative office
10 shall distribute the allocations due to a [~~new century~~] charter
11 school [~~or new century conversion charter school pursuant to~~
12 ~~sections 302A-1185 and 302A-1191,~~] established under chapter
13 302B directly to the [~~new century~~] charter school [~~or new~~
14 ~~century conversion charter school~~]."

15 SECTION 12. Section 302A-1303.6, Hawaii Revised Statutes,
16 is amended to read as follows:

17 "[~~†~~]**§302A-1303.6**[~~†~~] **Weighted student formula.** Based upon
18 recommendations from the committee on weights, the board of
19 education, not less than annually, shall adopt a weighted
20 student formula for the allocation of moneys to public schools
21 [~~which~~] that takes into account the educational needs of each
22 student. The department, upon the receipt of appropriated



1 moneys, shall use the weighted student formula to allocate funds
2 to public schools. Principals shall expend moneys provided to
3 the principals' schools. This section shall only apply to [~~new~~
4 ~~century~~] charter schools [~~and new century conversion charter~~
5 ~~schools~~] for fiscal years in which the [~~new century~~] charter
6 schools [~~and new century conversion charter schools~~] elect
7 pursuant to section [~~302A-1182.5~~] 302B-13 to receive allocations
8 according to the weighted student formula."

9 SECTION 13. Section 302A-1505, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Prior to informing the department about the school's
12 repair and maintenance needs, the school's principal shall
13 consider the recommendations made by the school community
14 council or the local school board, if the school is a [~~new~~
15 ~~century~~] conversion charter school[~~-~~] established under chapter
16 302B."

17 SECTION 14. Section 302A-1507, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) There is established a classroom cleaning project in
20 all public schools, excluding [~~new century~~] charter schools [~~and~~
21 ~~new century conversion charter schools.~~] established under
22 chapter 302B. Each school, through its school community



1 council, may develop mechanisms to provide for classroom
2 cleaning, including but not limited to having parent, student,
3 or other community groups clean the classrooms on a regular,
4 continuing basis."

5 PART III

6 SECTION 15. The purpose of this part is to amend various
7 sections of the Hawaii Revised Statutes relating to education
8 and the department of education to further the ability of the
9 State's charter schools to act independently of the department
10 of education and the public schools that the department
11 establishes and operates.

12 SECTION 16. Section 302A-301, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) There is established in the state treasury a trust
15 fund to be known as the incentive and innovation grant trust
16 fund to provide incentive and innovation grants to qualified
17 schools[-], including charter schools. Expenditures from the
18 trust fund shall be made by the department and shall be subject
19 to the allotment and expenditure plan required under section 37-
20 34.5. Notwithstanding any other law to the contrary, tax
21 deductible donations may be made to, and received by, this trust
22 fund."



1 SECTION 17. Section 302A-1128, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§302A-1128 Department powers and duties.** (a) The
4 department shall have entire charge and control and be
5 responsible for the conduct of all affairs pertaining to public
6 instruction[7] in the public schools the department establishes
7 and operates, including operating and maintaining the capital
8 improvement and repair and maintenance programs for department
9 and school facilities. The department may establish and
10 maintain schools for secular instruction at such places and for
11 such terms as in its discretion it may deem advisable and the
12 funds at its disposal may permit. The schools may include high
13 schools, kindergarten schools, schools or classes for pregrade
14 education, boarding schools, Hawaiian language medium education
15 schools, and evening and day schools. The department may also
16 maintain classes for technical and other instruction in any
17 school where there may not be pupils sufficient in number to
18 justify the establishment of separate schools for these
19 purposes.

20 (b) The department shall regulate the courses of study to
21 be pursued in all grades of the public schools it establishes



1 and operates, and classify them by methods the department deems
2 proper; provided that:

3 (1) The course of study and instruction shall be regulated
4 in accordance with the statewide performance standards
5 established under section 302A-201;

6 (2) All pupils shall be progressively competent in the use
7 of computer technology; and

8 (3) The course of study and instruction for the first
9 twelve grades shall provide opportunities for all
10 students to develop competency in a language in
11 addition to English.

12 The department shall develop statewide educational policies
13 and guidelines based on this subsection without regard to
14 chapter 91.

15 For the purposes of this subsection, the terms
16 "progressively competent in the use of computer technology" and
17 "competency in a language in addition to English" shall be
18 defined by policies adopted by the board. The board shall
19 formulate statewide educational policies allowing the
20 superintendent to exempt certain students from the requirements
21 of paragraphs (2) and (3) without regard to chapter 91.



1 (c) Nothing in this section shall interfere with those
2 persons attending a summer school."

3 SECTION 18. Section 302A-1402, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**§302A-1402**[+] **Custodian of federal funds.** The
6 director of finance is designated as custodian of all funds
7 received as the state apportionment under any federal
8 appropriations for public educational purposes and the director
9 shall disburse the funds, pursuant to the requirements,
10 restrictions, and regulations of the federal acts under which
11 the funds may be provided, on vouchers approved by the board, or
12 by any subordinate thereunto duly authorized by the board~~[-]~~, or
13 as appropriate, by the charter school administrative office."

14 SECTION 19. Section 302A-1403, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~+~~]**§302A-1403**[+] **Authority to secure federal funds.** The
17 department, the charter school administrative office, director
18 of finance, and governor may take such steps and perform such
19 acts as may be necessary or proper [~~in order~~] to secure any such
20 federal funds for the purposes specified in sections 302A-1401
21 and 302A-1402."



1 SECTION 20. Section 302A-1404, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The department and the charter school administrative
4 office, as appropriate, may retain and expend federal indirect
5 overhead reimbursements for discretionary grants in excess of
6 the negotiated rate for such reimbursements as determined by the
7 director of finance and the superintendent[-] or the director of
8 finance and the executive director of the charter school
9 administrative office."

10 SECTION 21. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 22. This Act shall take effect July 1, 2006.

