
A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 SECTION 1. Six years ago, the Legislature enacted Act 62,
2 Session Laws of Hawaii 1999, to test a new approach for improving
3 the quality and effectiveness of the State's public schools. The
4 act authorized the creation of a new kind of public school for
5 this purpose, public charter schools, and cloaked each charter
6 school with express authority to act independently of the
7 department of education, to devise and implement curriculum and
8 programs tailored to the individual needs of its students.

9 Notwithstanding the commitment to achieving the independence
10 and innovations in educational programming the act contemplated,
11 basic operational demands have prevented charter schools from
12 making meaningful progress toward these goals. Funding has been
13 inadequate and not disbursed on a timely basis, in large part
14 because the original funding formula was not well conceived.
15 Charter schools have also been given only limited, if any, access
16 to facilities, equipment, centralized services, and other state
17 resources other public schools and state agencies enjoy.

1 Most critically, the charter schools have been frustrated in
2 their efforts by the inconsistent and uncoordinated provisions of
3 law that govern them, making necessary a comprehensive revision
4 of the State's education laws, including the 1999 laws that
5 authorized the establishment of charter schools.

6 This Act has four purposes: (1) to reiterate the objectives
7 of the State's public charter schools; (2) to set out the powers
8 and responsibilities of charter schools clearly; (3) to allow for
9 the establishment of additional new charter schools; and (4) to
10 provide charter schools with the resources they need to educate
11 their students. This Act shall be known as "The Charter School
12 Opportunities Act of 2006."

13 PART I

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

16 "CHAPTER 302B

17 PUBLIC CHARTER SCHOOLS

18 §302B-1 Purpose. The purposes of this chapter are to
19 authorize the establishment of public charter schools, and to
20 establish the public charter school authority as a separate
21 subsystem of the State's single statewide system of public
22 schools for the governance and to provide administrative
23 organization and support for all public charter schools.

1 The legislature's underlying objectives in authorizing the
2 establishment of public charter schools is to:

3 (1) Improve student learning;

4 (2) Encourage the use of different and innovative teaching
5 methods;

6 (3) Create new professional opportunities for teachers,
7 including the opportunity to be responsible for the
8 learning program at the school site;

9 (4) Provide parents and students with expanded choices in
10 the types of educational opportunities that are
11 available within the State's statewide system of public
12 schools; and

13 (5) Provide a venue for promoting the study of Hawaii's
14 culture, history, and language.

15 In enacting this chapter, it is the intention of the
16 legislature to provide public charter schools with sufficient
17 resources and support, and clear directions for their governance
18 and administration to sustain their efforts to develop an
19 alternative learning environment, school setting, curriculum, and
20 educational services specifically suited to the needs of their
21 students, and provide parents and students with an additional
22 academic choice.

1 **§302B-2 Definitions.** Whenever used in this chapter, unless
2 the context otherwise requires:

3 "Charter school" refers to those public schools holding
4 charters to operate as charter schools under this chapter, or
5 holding charters to operate as new century charter schools issued
6 under section 302A-1182(g), or new century conversion charter
7 schools issued under section 302A-1191(g), before these
8 respective subsections were repealed by Act ____, Session Laws of
9 Hawaii 2006.

10 "Chartering board" or "board" means the public school
11 chartering board established by section 302B-4.

12 "Complex" means each of the geographic areas of the
13 department of education supervised by a complex area
14 superintendent.

15 "Department" means the department of education.

16 "Director" means the executive director of the charter
17 school administrative office.

18 "Office" means the charter school administrative office.

19 **§302B-3 Charter schools authorized.** (a) To encourage the
20 development and use of innovative educational settings and
21 programs to improve student achievement in the public schools,
22 the public school chartering board may issue up to a charters
23 authorizing the establishment and operation of charter schools.

1 (b) Charter schools are state instrumentalities, part of
2 the State's single statewide system of public schools, and an
3 alternative means of providing students with the public education
4 the State is required to provide under article X of the State
5 Constitution.

6 (c) As public schools, charter schools shall be free from
7 sectarian control, and shall not discriminate on the basis of
8 race, religion, sex, or ancestry.

9 (d) As public schools, charter schools shall not charge
10 tuition, but may require the payment of fees on the same basis
11 and to the same extent as other public schools.

12 (e) Except to be subject to the statewide educational
13 policies of the board of education applicable to charter schools,
14 and the administrative control of the public school chartering
15 board for purposes of ensuring their compliance with the
16 requirements of this chapter, the provisions of their charters,
17 and the budget and federal financial assistance consolidation
18 processes of section 302B-7, every charter school shall be deemed
19 an independent and autonomous public school and shall be
20 responsible for its own operation including, but not limited to
21 the preparation of an annual operating budget and a fiscal plan,
22 personnel management, comprehensive recordkeeping, and timely and
23 accurate reporting.

1 (f) Charter schools shall not be required to pay
2 assessments levied by any county, nor shall they be required to
3 pay state taxes of any kind. An applicant's or charter school
4 operator's organization as a nonprofit corporation pursuant to
5 chapter 414D shall not affect the charter school's status as a
6 public school or as a state instrumentality for any purpose under
7 state law.

8 (g) Except as limited by this chapter, charter schools may:

9 (1) Own, lease, transfer or otherwise acquire, hold, or
10 dispose of any real, personal, or mixed property, or
11 any interest therein, provided that the acquisition is
12 reviewed beforehand by the attorney general and the
13 charter school acquires the property or interest at its
14 own risk with no interest or responsibility accruing to
15 the State, and provided further that the State shall
16 have first right of refusal to acquire all the assets
17 of a charter school purchased with state or federal
18 funds, if the school is dissolved or has its charter
19 revoked; and

20 (2) Make and execute contracts and other instruments
21 necessary for their operation, including pledges,
22 assignments or encumbrances of its assets to be used as
23 collateral for loans or extensions of credit, provided

1 that any financial obligation or liability a charter
2 school incurs in connection with this power shall be
3 payable solely from moneys and property of the charter
4 school and shall not constitute a general obligation of
5 the State, or be secured directly or indirectly by the
6 full faith and credit of the State or the general
7 credit of the State, or by any revenue or taxes of the
8 State.

9 (h) Charter schools shall satisfy all achievement standards
10 established by and made applicable to them by the public school
11 chartering board, board of education, or state statutes, and any
12 standards the federal government may impose as a condition for
13 federal funding or otherwise.

14 (i) Charter schools may serve one or more of the grades
15 kindergarten through twelve, and shall limit admission to
16 students within the grade levels served.

17 (j) Any charter school that enrolls special education
18 students or identifies one of its students as eligible for
19 special education shall be responsible for providing the
20 educational and related services required by a student's
21 individualized education plan; provided that if the charter
22 school is unable to provide all of the required services itself
23 or by one or more contracts with an appropriate service provider

1 or providers, then services to the student shall be provided by
2 the authority in the least restrictive environment to the student
3 and according to services determined by the student's
4 individualized educational plan.

5 **§302B-4 Governance of public charter schools; charter**
6 **school authority established.** (a) The public charter school
7 authority is established as a subsystem of the State's single
8 statewide system of public schools. The authority shall be
9 responsible for providing administrative support and direction
10 for the efficient operation and management of public charter
11 schools. The authority shall be placed within the department of
12 education for administrative purposes only. The authority shall
13 constitute a local educational agency for purposes of all federal
14 laws, federal educational programs, and federal funding programs,
15 and shall serve as the central support system for the overall
16 administration of education policy, compliance with federal and
17 state laws, and the preparation of a budget for all public
18 charter schools.

19 (b) The authority shall be headed by the public school
20 chartering board. The board shall consist of nine members,
21 including one member of the board of education designated by the
22 chairperson of the board of education to serve for at least one
23 year, the comptroller or the comptroller's designee, the

1 director, the dean of the university of Hawaii's college of
2 education or the dean's designee, and five members appointed by
3 the governor pursuant to section 26-34. Of the members appointed
4 by the governor, one member shall be a parent of a student
5 enrolled at a public charter school, one member shall have
6 business or fiscal work experience, one member shall be a
7 licensed teacher, one member shall be a current or retired
8 administrator of a private school, and one member shall have been
9 nominated by an organization of charter schools operating within
10 the State.

11 (c) Board members shall receive no compensation. Members
12 shall be reimbursed for necessary travel expenses incurred in the
13 conduct of official board business.

14 (d) The chairperson shall be elected by a majority of the
15 members of the board, and the office's staff shall provide
16 administrative support for the board.

17 (e) The authority is authorized and shall be responsible
18 for:

- 19 (1) Developing statewide educational policies and
20 objectives for the administration and management of
21 public charter schools;
- 22 (2) Reviewing all applications to establish a charter
23 school, or to renew a school's charter;

- 1 (3) Issuing, renewing, and revoking charters;
- 2 (4) Receiving and investigating complaints against
- 3 charter schools;
- 4 (5) Prescribing remedial action plans for charter schools
- 5 when necessary or appropriate;
- 6 (6) Providing information about the availability of federal
- 7 funds and federal programs in which charter schools may
- 8 participate, as well as technical assistance to assist
- 9 charter schools in complying with all federal and state
- 10 laws, and maximizing their access to federal and state
- 11 funds;
- 12 (7) Overseeing charter schools to ensure their compliance
- 13 with the provisions of their charters, this chapter,
- 14 all other applicable state and federal laws, and all
- 15 statewide educational policies of the board of
- 16 education that are applicable to charter schools and
- 17 not superseded by provisions of this chapter;
- 18 (8) Preparing the budgets of the office and the chartering
- 19 board;
- 20 (9) Reviewing the budgets of the individual charter schools
- 21 and consolidating them with the budgets of the office
- 22 and chartering board, into a single budget for the

- 1 public charter school authority, for submission to the
2 governor, through the board of education;
- 3 (10) Disbursing all appropriations made for the public
4 charter school authority, including the office, the
5 chartering board, and the charter schools;
- 6 (11) To the extent permitted by federal law, preparing and
7 submitting to the relevant federal agencies all
8 requests for federal financial support charter schools
9 are entitled to make or receive;
- 10 (12) To the extent permitted by federal law, receiving and
11 disbursing all federal grants and subsidies awarded to
12 charter schools or for their operation;
- 13 (13) Preparing, consolidating, and submitting all requests
14 for federal financial support and assistance for or
15 from charter schools, to the department for inclusion
16 in the State's applications for federal assistance,
17 when applications are required to be made through the
18 department only;
- 19 (14) Representing charter schools in communications with the
20 superintendent, the board of education, the governor,
21 and the legislature; and
- 22 (15) Designating and authorizing the board of regents of the
23 university of Hawaii and any other public agency to act

1 as a chartering authority and issue charters under
2 section 302B-16.

3 (f) The authority, through its board, may delegate all of
4 its powers and responsibilities to the director except the power
5 to designate entities to act as a chartering authority under
6 subsection (e)(15).

7 (g) The authority may adopt rules pursuant to chapter 91
8 necessary for the purposes of this chapter.

9 **§302B-5 Charter school administrative office; executive**
10 **director.** A charter school administrative office is established
11 within the authority to provide day-to-day support for all of the
12 authority's functions and responsibilities. The office shall be
13 administered by an executive director who shall be appointed by
14 and serve at the pleasure of the public school chartering board,
15 without regard to chapters 76, 89 and 377. The executive
16 director may hire necessary staff without regard to chapters 76
17 and 89 to assist in the administration of the office. The salary
18 of the executive director and staff shall be set by the public
19 school chartering board. The director shall perform all tasks
20 assigned by this chapter or delegated by the chartering board
21 pursuant to section 302B-4(f).

22 **§302B-6 Admission and enrollment of students.** Any child
23 who is qualified for admission to a department school is

1 qualified for admission to a charter school. Charter schools
2 shall enroll each eligible student who submits a timely
3 application, unless the number of applications exceeds the
4 capacity of a school's grade level or facility capacity. Charter
5 schools shall have written admissions policies that include
6 provisions for determining admission when applications exceed
7 capacity. If more students apply than can be accommodated,
8 students may be accepted from among applicants by a random
9 selection process, or by enrollment preferences for returning
10 students, students residing in the school district in which the
11 charter school is located, and siblings of students already
12 enrolled in the charter school.

13 A charter school may refuse admission to any student who has
14 been expelled or suspended from a department school until the
15 period of suspension or expulsion from that school has expired,
16 consistent with the requirements of due process.

17 Students may withdraw from a charter school at any time.

18 **§302B-7 Funding and fiscal support.** (a) The authority
19 shall prepare an annual budget for the public charter school
20 authority, including the office, the chartering board, and all
21 public charter schools, for submission to the board of education
22 for inclusion, without modification or reduction by the board of
23 education, in the budget the department submits to the director

1 of finance and governor. The budget request shall include
2 separate requests to cover expenses for instructional activities,
3 including special education and support services, employment
4 taxes and fringe benefits, and for facilities, utilizing
5 appropriations in the general appropriations act for the most
6 recently completed, next immediate fiscal year, and derived as
7 follows:

8 (1) The budget requests for instructional activities, and
9 facilities, respectively, shall be based upon:

10 (A) The total enrollment of regular education and
11 special education students at charter schools,
12 verified as of October 15 of the current school
13 year;

14 (B) The sums appropriated to the department for
15 physical plant operations and maintenance,
16 instructional activities and facilities,
17 respectively, less so much of such sums as are
18 appropriated for employment taxes and fringe
19 benefits, in all cost categories, and for all
20 means of financing except federal funds; and

21 (C) The total enrollment of regular education and
22 special education students enrolled in the schools

1 established and maintained by the department for
2 that fiscal year;

3 (2) The budget request for employment taxes and fringe
4 benefits shall be based upon:

5 (A) The total number of employees employed by the
6 authority as of October 15 of the current school
7 year;

8 (B) The sums appropriated to the department for
9 employment taxes and fringe benefits; and

10 (C) The total number of positions authorized to the
11 department for that fiscal year, in all cost
12 categories, for all means of financing;

13 provided that the authority may include any other amounts,
14 including amounts for collectively bargained increases, and
15 capital improvements, as it deems necessary.

16 (b) Each charter school shall prepare an annual budget for
17 the next fiscal year and submit it to the director by October 1
18 of each year. The submission shall include separate amounts to
19 cover expenses for instructional activities, including special
20 education and support services, employment taxes and fringe
21 benefits, and for facilities.

22 (c) The funds appropriated by the legislature shall be
23 subject to any reduction or restrictions the governor may impose

1 under chapter 37, and allotted to the authority by the director
2 of finance. After retaining any amounts appropriated specifically
3 for a specified purpose by the legislature for expenditure by the
4 authority, and two per cent of all other funds appropriated for
5 the authority, including the office and the charter schools, the
6 remaining portion of the funds allotted shall be disbursed by the
7 director to the charter schools as follows:

8 (1) Based upon each charter school's projected enrollment
9 for the upcoming school year, up to its fifty per cent
10 share of the funds allotted shall be disbursed to each
11 charter school no later than July 20, provided the
12 charter school submitted a projected student enrollment
13 to the office no later than May 15 of that year;

14 (2) Based upon each charter school's verified student
15 enrollment as of October 15, up to its forty per cent
16 share of the funds allotted shall be disbursed to each
17 charter school no later than November 15, provided the
18 charter school submitted to the office:

19 (A) A student enrollment verified as of October 15 or
20 as of the day before October 15, if October 15
21 should fall on a weekend; and

22 (B) The percentage of its verified October 15 student
23 enrollment who transferred to the charter school

1 from a public school established and maintained by
2 the department in that school year; and

3 (3) Based upon each charter school's verified student
4 enrollment as of October 15, up to its ten per cent of
5 share of the sum remaining shall be disbursed to each
6 charter school no later than January 1 of each year.

7 Any sum appropriated but not disbursed in accordance with this
8 process may be further disbursed to the charter schools on a pro
9 rata basis or any other basis the director, consistent with
10 directions from the chartering board, determines is appropriate.
11 All sums disbursed to charter schools shall be deemed expended
12 for purposes of chapter 37 and this chapter.

13 (d) Appropriations may be used to pay personnel, and for
14 facilities, materials, supplies, equipment, insurance,
15 fringe benefits, and other goods and services each charter school
16 purchases directly, or to contract for services provided by other
17 state agencies or private vendors, including nonprofit and for-
18 profit providers, provided that sums appropriated for specific
19 purposes, including special education and support services, and
20 facilities, shall be expended for those specified purposes only.

21 (e) Charter schools shall have complete discretion to
22 expend any funds they generate themselves, or receive from
23 sources other than appropriations by the legislature and federal

1 grants, subsidies, or other forms of federal financial
2 assistance, provided that annual fiscal reports identifying the
3 amounts generated or received, and the purposes for which they
4 were spent are provided to the director, authority, governor, and
5 legislature twenty days prior to the convening of each regular
6 legislative session.

7 (f) The director shall satisfy all of the requirements of
8 chapter 37 that the director of finance deems necessary, provided
9 that the director of finance shall accord the director the same
10 deference accorded the department for budget and fiscal planning
11 under that chapter.

12 (g) All funds appropriated and allotted to, or otherwise
13 received by a charter school shall be deposited in a depository
14 within the State in accounts insured by the Federal Deposit
15 Insurance Corporation.

16 (h) All appropriations not expended or allotted by the
17 authority in the fiscal year for which they are made shall not
18 lapse until June 30 of the first fiscal year of the next fiscal
19 biennium and may be disbursed or expended in the same manner
20 specified in subsection (c) for sums remaining after
21 appropriations are disbursed under that subsection. The director
22 shall submit a report to the director of finance and the
23 legislature, ninety days after the close of each fiscal year,

1 which shall be prepared in the form prescribed by the director of
2 finance and shall identify the total amount of funds that will
3 carry over to the next fiscal year.

4 **§302B-8 Reporting, assessments and review.** (a) Each
5 charter school shall submit an annual report to the director no
6 later than the first day of August of each year for the preceding
7 school year. The annual report shall include

- 8 (1) A profile of its enrollment and the community it
9 serves, including a breakdown of regular education and
10 special education students served;
- 11 (2) A self-assessment that measures and compares its
12 performance against the statewide performance standards
13 of the board of education, its students' achievement
14 against statewide student content and performance
15 standards, graduation rates, dropout rates, attendance
16 rates, a comparison of the number of applicants versus
17 school capacity, its students' performance on
18 standardized tests, college entry rates, total spending
19 per student and administrative spending per student;
- 20 (3) A discussion of the progress made towards achieving the
21 mission statement and other goals set forth in its
22 charter;

1 (4) Any administrative and legal barriers it encountered in
2 its operations during the school year, with
3 recommendations for removing or minimizing those
4 barriers; and

5 (5) A certified financial statement setting forth, by
6 appropriate categories, the revenues and expenditures
7 for the preceding school year, including a copy of the
8 most recent independent fiscal audit of the school.

9 **§302B-9 Laws applicable to charter schools.** (a) Charter
10 schools shall be exempt from all state statutes, including the
11 provisions of chapter 92, and implementing rules applicable to a
12 public school, including the provisions of chapter 302A, unless
13 they are restated in this chapter, or made applicable to charter
14 schools by express reference.

15 (b) The following laws are applicable to charter schools:

16 (1) Chapter 88 for the provision of employee retirement
17 benefits;

18 (2) Chapter 87A for the provision of employee health
19 insurance benefits;

20 (3) Chapter 88E and section 78-30 to allow employees to
21 participate in the State's deferred compensation plan,
22 and other cafeteria plans;

- 1 (4) Chapters 383, 386, 387, and 392 to afford employees
2 unemployment insurance, workers compensation, minimum
3 wage and other fair labor standards, and temporary
4 disability insurance benefits;
- 5 (5) Federal, state and county laws prohibiting
6 discrimination;
- 7 (6) Federal, state and county laws to protect health and
8 safety, including but not limited to section 302A-
9 601.5, for purposes of requiring criminal history
10 record checks for all employees of charter schools,
11 section 302A-1154 regarding immunization, section 302A-
12 1159 regarding physical examinations, and all county
13 zoning and building code requirements but not the
14 provisions of chapters 205 and 343 relating to state
15 land use classifications and impacts on the environment
16 when the parcel a charter school owns, buys, sells,
17 leases, or uses is less than 15 acres;
- 18 (7) Chapter 377, for purposes of affording the employees of
19 charter schools the opportunity to bargain
20 collectively, and notwithstanding that chapter's
21 exception of the State, political subdivisions of the
22 State, and employees of the State and its political
23 subdivisions from its provisions;

1 (8) Chapter 76 relating to the civil service, to ensure all
2 of the rights, privileges, and benefits of continuous,
3 uninterrupted civil service to those employees of
4 charter schools who were employed as civil service
5 employees in a department school prior to their
6 school's conversion to a charter school, or who fill
7 positions that continue to be civil service positions
8 because they were civil service positions prior to
9 their charter school's conversion from a department
10 school; and

11 (9) All laws that make exceptions for public schools,
12 including section 302A-1126.

13 (d) Charter schools shall be exempt from chapter 103D, the
14 state procurement code, but the director shall develop internal
15 policies and procedures for the procurement of goods, services,
16 and construction consistent with goals of public accountability
17 and public procurement practices.

18 **§302B-10 Actions by or against charter schools. (a)**
19 Charter schools may sue or be sued in their own names, provided
20 that charter schools shall not bring suit against the State or
21 any agency or instrumentality of the State. Notwithstanding any
22 other law to the contrary, all claims arising out of the acts or
23 omissions of a charter school or its officers, or its employees,

1 including claims permitted against the State under chapter 661,
2 and claims for torts permitted against the State under chapter
3 662, may be brought only pursuant to this section, only against
4 the charter school, and only in the manner provided for suits
5 against the State. Further, only claims permitted against the
6 State may be brought against a charter school, and all defenses
7 available to the State as well as all limitations on actions
8 brought by or against the State, shall be applicable to any suit
9 that is brought, and the rights and remedies conferred by this
10 section shall be exclusive and shall not be construed to
11 authorize any other claim, suit, or action against the State. A
12 judgment entered against a charter school, or a compromise or
13 settlement of any claim made by or on behalf of a charter school
14 shall not constitute a general obligation of the State, or be
15 secured directly or indirectly by the full faith and credit of
16 the State or the general credit of the State, or by any revenue
17 or taxes of the State. Further, a judgment or compromise or
18 settlement of any claim shall constitute a complete bar to any
19 action brought by reason of the same subject matter against the
20 State or any officer or employee of the charter school, or the
21 State.

22 (b) Money judgments awarded against a charter school, and
23 monetary claims compromised or settled by or on behalf of a

1 charter school may be payable by the State but only after the
2 judgment or claim is submitted to the legislature by the
3 director, and funds are appropriated by the legislature for that
4 purpose.

5 (c) No civil liability shall attach to the members of the
6 chartering board, the members of the board of education, or
7 executive director or employees, individually or collectively, of
8 the public charter schools authority or charter school
9 administrative office, for any act or omission of a charter
10 school.

11 (d) The director may appoint or retain by contract one or
12 more attorneys who are independent of the attorney general, to
13 provide legal services for charter schools. The director may fix
14 the compensation of the attorneys appointed pursuant to this
15 section. Attorneys appointed or retained by contract shall be
16 exempt from chapters 76 and 89. Nothing in this subsection
17 precludes the director from requesting and securing legal
18 services from the attorney general upon mutual agreement,
19 provided that the services are provided by attorneys who are not
20 assigned to furnish legal services to the department.

21 **§302B-11 Transfers of educational, personnel and other**
22 **records between the authority and the department.** The department
23 and the authority shall ensure that the educational and other

1 records of a student, or the personnel and other records of an
2 employee, who transfers to a public charter school from a public
3 school established and maintained by the department, or from a
4 public charter school to a public school established and
5 maintained by the department, are transferred to or from the
6 school the student or employee transfers from or to. Until such
7 transfers are completely effected, officials from the department
8 may inspect the records held by the authority or a charter
9 school, and officials from the authority or a charter school may
10 inspect the records held by the department, as though the
11 authority or charter school officials were officials of the
12 department or the department officials were officials of the
13 authority or charter school.

14 **§302B-12 Responsibilities of department of education.** (a)
15 By March 1 of each year, the department shall submit a list to
16 the director of vacant and unused public school facilities and
17 portions of excess equipment, and facilities that may be used for
18 the operation of a charter school. Costs to rent, improve,
19 modify, operate and maintain a vacant or unused facility shall be
20 subject to negotiation between the charter school and the
21 school's principal, if the facility is part of a public school,
22 or the charter school and the district business and fiscal
23 officer responsible for the facility.

1 (b) By July 1 of each year, the superintendent of education
2 and the director shall develop a list of centralized services,
3 including but not limited to payroll preparation, cafeteria
4 services, information and communications support services,
5 unemployment, workers compensation and temporary disability
6 claims management services, school level maintenance and repair
7 services, school custodian services, student transportation
8 services, equipment leasing and rentals, procurement services,
9 including access to procurement price lists for equipment,
10 supplies and services, for which charter schools may contract
11 with the departments of education, human resources development,
12 and accounting and general service to provide at cost. Charter
13 schools may also contract with private providers for these
14 services.

15 (c) Students enrolled in charter schools shall have the
16 same opportunity to participate in athletics provided to students
17 at other public schools. If a charter school student wishes to
18 participate in a sport for which there is no program at a charter
19 school, the department shall allow that student to participate in
20 a comparable program of any other public school in the complex in
21 which the charter school is located.

22 (d) The department shall provide the authority and charter
23 schools with information about the availability of federal funds

1 and federal programs in which charter schools may participate,
2 and collaborate with the director to develop and implement a
3 system of technical assistance related to compliance, to assist
4 charter schools in complying with all federal and state laws, and
5 accessing federal and state funds.

6 (e) To the extent permitted by federal law, the department
7 shall include all requests for federal financial assistance
8 prepared by the executive director of the charter school
9 administrative office, in the department's applications for
10 federal assistance, without revision or reductions, provided that
11 the director's requests may be commensurately reduced by the
12 proportion of total charter school students to total department
13 school students for which the request is made, to accommodate any
14 federally prescribed cap.

15 (f) The department shall provide appropriate transitional
16 resources for the first year of operation of a new charter school
17 that was a department school in the previous year and converted
18 to a charter school, based upon the department's allocation to
19 the school for the year prior to its conversion to a charter
20 school.

21 **§302B-13 Cooperation of other state agencies.** (a) By March
22 1 of each year, the comptroller and the official designated by
23 the president of the university of Hawai'i shall each submit a

1 list to the director of excess equipment, and vacant and unused
2 state facilities and portions of facilities that may be used for
3 the operation of a charter school. Costs to rent, improve,
4 modify, operate and maintain a vacant or unused facility shall be
5 subject to negotiation between the charter school and the
6 comptroller or the president's designee.

7 (b) The department of the attorney general shall promptly
8 respond to the public school chartering board's requests for
9 federal and state criminal records history checks.

10 (c) State agencies shall make all services, particularly
11 centralized services, including audit services, building repair
12 and alterations, risk management, workers compensation and
13 temporary disability claims management, office leasing, equipment
14 leasing and rentals, surplus property management, procurement
15 price lists, available to charter schools in the same manner they
16 make them available to other state agencies, whether at no cost,
17 for a fee, or the transfer of appropriations.

18 **§302B-14 Applications for initial charters.** (a) An
19 application to establish a charter school may be submitted by
20 teachers, parents, school administrators, community residents or
21 any combination thereof, in conjunction with an educational
22 institution including an existing public or private school, a
23 college or a university, or a nonprofit organization under

1 section 501(c)(3) of the Internal Revenue Code of 1986, as
2 amended, or a for-profit entity authorized to do business in this
3 state. Applications to establish a charter school affiliated with
4 a for-profit entity shall specify the extent of the entity's
5 participation in the management and operation of the charter
6 school.

7 (b) The information provided in the application shall be
8 consistent with the provisions of this chapter and other
9 applicable laws, and, as appropriate should address the
10 following:

- 11 (1) A mission statement for the school and a description
12 of an educational program that implements one or more
13 of the purposes described in section 302B-1;
- 14 (2) A description of student achievement goals for the
15 school's educational program and the methods to be used
16 to assess whether students have attained the skills and
17 knowledge specified for those goals. The educational
18 program shall meet or exceed the student performance
19 standards adopted by the board of education for other
20 public schools;
- 21 (3) The proposed governance structure of the school,
22 including a list of members of the school's initial
23 local school board, a description of the

1 qualifications, terms and method of appointment or
2 election of local school board members, the
3 organizational structure of the school, and the
4 processes to be followed by the school to promote
5 parental and staff involvement in school governance;

6 (4) Admission policies and procedures for the school, which
7 shall be consistent with the requirements of this
8 chapter;

9 (5) A proposed annual operating and capital budget prepared
10 in accordance with the requirements of section 302B-7,
11 and a fiscal plan for the school, including supporting
12 evidence that the fiscal plan is sound and that
13 sufficient start-up funds will be available to the
14 charter school;

15 (6) A system of accounts and accounting that ensures that
16 funds and assets appropriated or provided by the State
17 or the United States, and expenses or disbursements
18 paid therewith, are distinguishable from funds, assets
19 or expenses generated, acquired or paid by the charter
20 school from other sources;

21 (7) Requirements and procedures for programmatic and
22 independent fiscal audits at least once every three

- 1 years, with such audits being comparable in scope to
2 those required of other state agencies;
- 3 (8) The hiring and personnel policies and procedures of the
4 school, including the qualifications to be used in the
5 hiring of teachers, school administrators and other
6 school employees, a description of staff
7 responsibilities, a compensation schedule, and a
8 description of employee rights and benefits;
- 9 (9) The rules and procedures by which students may be
10 disciplined, including but not limited to expulsion or
11 suspension from the school, which shall be consistent
12 with the requirements of due process and with federal
13 laws and regulations governing the placement of
14 students with disabilities;
- 15 (10) The number of students to be served by the school, and
16 the minimum number of teachers to be employed at the
17 school;
- 18 (11) Information regarding the facilities to be used by the
19 school, including the location of the school, if known,
20 and the means by which pupils will be transported to
21 and from the school. If the facilities to be used by
22 the proposed school are not known at the time the
23 application is submitted, the applicant shall notify

1 the chartering board within ten business days of
2 acquiring facilities for the school; provided that the
3 charter school must obtain a certificate of occupancy
4 for the facilities prior to the date on which
5 instruction is to commence at the school;

6 (12) A description of the ages and grade levels to be served
7 by the school;

8 (13) Identification and background information on all
9 applicants and proposed members of the local school
10 board;

11 (14) The school calendar and school day schedule, which
12 shall provide at least as much instruction time during
13 a school year as required of other public schools;

14 (15) Types and amounts of insurance coverage to be obtained
15 by the school, which shall include adequate insurance
16 for liability, property loss and the personal injury of
17 students;

18 (16) The term for the charter the applicant seeks, which
19 shall not exceed five years;

20 (17) Evidence of adequate community support for and interest
21 in the charter school to allow the school to reach its
22 anticipated enrollment, and an assessment of the

- 1 projected programmatic and fiscal impact of the school
2 on other public and nonpublic schools in the area;
- 3 (18) Methods and strategies for serving students with
4 disabilities in compliance with all federal laws and
5 regulations relating thereto;
- 6 (19) A description of the residential facilities, if any,
7 provided by the charter school;
- 8 (20) The name and contact information for the person
9 authorized by the applicant to sign the application for
10 the applicant, and to receive and respond to any
11 question or request for additional information about
12 the application from the chartering board;
- 13 (21) If the application is from an existing department
14 school, the application shall indicate that
- 15 (A) It has been approved by a majority of the votes
16 cast by existing administrative, support, and
17 teaching personnel, and parents; provided that the
18 school personnel may request their bargaining unit
19 representative to certify and conduct the
20 elections for their respective bargaining units;
21 and
- 22 (B) Its local school board as its governing body is or
23 will be composed of, at a minimum, one

- 1 representative from each of the following
2 participant groups:
- 3 (i) Principals;
 - 4 (ii) Instructional staff members selected by the
5 school instructional staff;
 - 6 (iii) Support staff selected by the support staff
7 of the school;
 - 8 (iv) Parents of students attending the school
9 selected by the parents of the school;
 - 10 (v) Student body representatives selected by the
11 students of the school; and
 - 12 (vi) The community at-large; and
- 13 (22) Any other information the applicant deems relevant to
14 the application for a charter.
- 15 (c) The person who signs the application for the applicant
16 shall submit a full set of fingerprints to the office for the
17 purpose of obtaining a state and federal criminal history records
18 check. The department of the attorney general is authorized to
19 provide this information to the federal bureau of investigation
20 and to perform a state and federal criminal history records check
21 on each applicant and report the results to the chartering board.
- 22 (d) All applications shall be submitted to the office. At
23 the direction of the chartering board, the director may forward

1 applications for review and processing under this section, to a
2 chartering authority designated by the board, in which case every
3 reference to the board in section 302B-16 shall be a reference to
4 the designated chartering authority.

5 **§302B-15 Charter renewals.** Charters may be renewed for a
6 term of up to five additional years. Applications for renewal
7 shall be submitted to the office no later than six months prior
8 to the expiration of a charter, provided that the chartering
9 board may waive such deadline for good cause shown. A renewal
10 application shall include:

- 11 (1) A report of the progress of the charter school in
12 achieving the educational objectives set forth in the
13 charter, including the results of the school's student
14 assessments for each year of its operation;
- 15 (2) A detailed financial statement in the form prescribed
16 by the director that discloses the school's annual
17 administrative and instructional costs, and other
18 operating expenses to allow the board to compare the
19 school's costs to similar costs incurred by other
20 public and private schools. The director shall provide
21 the form for this report;

1 (3) Written submissions from the charter school's parents
2 and students to indicate their level of satisfaction
3 with the school's operations;

4 (4) Updates to the applicant's original application as
5 appropriate; and

6 (5) Any other information the chartering board requests.

7 **§302B-16 Issuance of charters.** (a) The chartering board
8 or an entity the board designates and authorizes to act as a
9 chartering authority under section 302B-4, shall have sixty
10 working days to review an application for an initial charter or
11 to renew a charter, after which it shall either issue a charter,
12 issue a one year provisional charter, or reject the application
13 for a charter or to renew a charter. The board shall be assisted
14 in its review by the staff of the office.

15 (b) Not later than thirty calendar days after receiving an
16 application for an initial charter or an application to renew a
17 charter, the chartering board shall hold a public hearing on the
18 application for the purpose of receiving information from the
19 community, including parents and students, as well as
20 administrators, teachers, and staff if the applicant is a
21 department school, in order to assess the level of support for
22 the application.

1 (c) The chartering board shall not issue or renew a charter
2 unless it finds that:

3 (1) The charter school described in the application meets
4 all of the requirements of this chapter, and all other
5 applicable laws, including applicable rules;

6 (2) The applicant can reasonably be expected to operate the
7 school in an educationally and fiscally sound manner;
8 and

9 (d) The chartering board is not required to approve an
10 application, and may require an applicant to modify or supplement
11 an application as a condition of approval of the application. If
12 the chartering board rejects an application, the chartering board
13 shall prepare a written decision describing all of its reasons
14 for not issuing a charter or a provisional charter. The written
15 decision and a certificate of service indicating the day the
16 decision was mailed to the applicant, shall be mailed to the
17 applicant's authorized representative. Copies of the written
18 decision shall also be filed in the office, and the office of the
19 board of education.

20 (e) If the chartering board determines that the applicant
21 may reasonably be expected to expeditiously resolve concerns
22 impeding the issuance of a charter, the board may issue a
23 provisional charter which shall be effective for one year. The

1 provisional charter may be extended beyond that one year period,
2 or converted to a non-provisional charter as soon as all
3 outstanding issues have been resolved.

4 (f) If a majority of the chartering board agrees that a
5 charter or a provisional charter should be issued or renewed, the
6 office shall prepare, and the applicant's authorized
7 representative and the director as chairperson of the board shall
8 execute, a written agreement which shall constitute the school's
9 charter. The agreement or charter shall set out all of the terms
10 and conditions for the school's operation, including all of the
11 commitments regarding all of the items included or addressed in
12 the school's application, and all other terms and conditions
13 required by applicable laws or agreed to by the applicant and the
14 chartering board. In addition, the charter shall include the
15 specific commitments of the chartering board relating to its
16 obligations to oversee the charter school. One copy of the
17 charter shall be on file in the office.

18 **§302B-17 Revocation of a charter; probationary status. (a)**

19 By a two-thirds majority vote of its members, the chartering
20 board may revoke a charter school's charter and terminate its
21 operations upon any of the following grounds:

22 (1) The school fails to satisfy the achievement standards
23 established by the public school chartering board,

1 board of education, or state statutes, or any standards
2 the federal government may impose as a condition for
3 federal funding or otherwise;

4 (2) Serious violations of applicable laws, including
5 discrimination against employees and intentional
6 interference with their rights or receipt of benefits;

7 (3) A pattern and practice of materially and substantially
8 failing to satisfy provisions of its charter, including
9 fiscal mismanagement, that undermines its ability to
10 operate the school in an educationally and fiscally
11 sound manner; or

12 (4) Ignoring or failing to fully effect remedial orders
13 issued by the chartering board or the board of
14 education under this section or section 302B-18.

15 (b) The chartering board shall provide the charter school's
16 local school board with a written notice of intent to revoke the
17 school's charter. This preliminary notice shall include a
18 statement of reasons for the proposed revocation, including
19 problems which the charter school may address to avoid the
20 revocation, and specify a period of at least ninety days during
21 which the charter school will be allowed to address and correct
22 the problems cited in the preliminary notice.

1 (c) At the end of the period specified in the preliminary
2 notice, the chartering board may place the school on probationary
3 status to allow the implementation of a remedial action plan, or
4 issue a notice of revocation. Every remedial action plan shall
5 specify a tentative revocation date. The authority shall provide
6 technical and advisory support to assist a charter school in
7 complying with a remedial action plan. A notice of revocation
8 shall be issued on the date specified in the remedial action
9 plan, if a charter school fails to satisfy all of the terms and
10 conditions of the remedial action plan after the school has been
11 placed on probationary status.

12 (d) A notice of revocation shall specify the effective date
13 of revocation, and inform the school of its right to appeal the
14 chartering board's decision to revoke the school's charter under
15 section 302B-19. If the chartering board's decision to revoke
16 the school's charter is not appealed, the school shall proceed
17 with its dissolution pursuant to the procedures set out in its
18 charter.

19 **§302B-18 Complaints against charter schools; remedial**
20 **orders.** Any individual or group with a complaint about a charter
21 school's operation or management, or a school's alleged violation
22 of the provisions of this chapter, its charter, or any other
23 provision of law, shall first present the complaint to the

1 school's local school board. If, after presentation of the
2 complaint to the local school board, the individual or group
3 determines that the board has not adequately addressed their
4 complaint, they may present the complaint to the director of the
5 charter schools administrative office, who shall investigate and
6 respond. If, after presentation of the complaint to the
7 director, the individual or group determines that the director
8 has not adequately addressed their complaint, they may present
9 the complaint to the chartering board, which shall investigate
10 and respond. The chartering board shall have the power and the
11 duty to issue appropriate remedial orders to charter schools to
12 effectuate the provisions of this section.

13 **§302B-19 Appeals from decisions of the chartering board.**

14 (a) An applicant or a charter school adversely affected by a
15 decision of the public school chartering board may request that
16 the board of education review the decision of the chartering
17 board by filing a notice of appeal from the decision in the
18 office of the board of education within thirty days of the day
19 the chartering board mailed its decision to the applicant or
20 charter school. The notice of appeal shall identify the decision
21 the applicant or charter school challenges, and include a brief
22 statement of the reasons the applicant or charter school contends
23 the chartering board's decision is erroneous.

1 (b) The board of education shall afford the applicant or
2 the charter school a hearing in accordance with chapter 91. The
3 chartering board shall be a party to the hearing, and shall be
4 given notice of the hearing and allowed to defend its decision
5 through the director.

6 (c) When the appeal is from the unilateral imposition of a
7 condition, or the denial of an application for an initial charter
8 or to renew a charter, the board of education shall affirm the
9 decision of the chartering board if it finds and concludes that
10 the condition or conditions the chartering board imposed are
11 necessary to ensure the best interests of students and the
12 community, or the applicant has not satisfied all of the
13 requirements for the issuance or renewal of a charter.

14 (d) When the appeal is from a decision to revoke and
15 terminate a charter, the board of education shall affirm the
16 chartering board's decision if, after the charter school has had
17 an opportunity to be heard, the board finds and concludes that
18 one or more grounds for termination specified in section 302B-17
19 exists."

20 PART III

21 SECTION 3. The purpose of this part is to propose
22 amendments to the Hawaii Revised Statutes relating to education
23 and the department of education to further the ability of the

1 State's public charter schools to act independently of the
2 department of education and the public schools that the
3 department establishes and maintains.

4 SECTION 4. Section 13-1, of the Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The board of education shall consist of [~~thirteen~~
7 ~~members who~~] fifteen members. The thirteen elected members shall
8 be elected by the registered voters of two at-large school board
9 districts as follows:

10 First school board district: the island of Oahu, comprised
11 of the 11th through the 48th and a portion of the 49th (that
12 portion found on the island of Oahu) representative districts,
13 and the

14 Second school board district: the islands of Hawaii, Maui,
15 Lanai, Molokai, Kahoolawe, Kauai, and Niihau, comprised of the
16 1st through the 10th, a portion of the 49th (that portion found on
17 the island of Kauai), and the 50th and 51st representative
18 districts."

19 SECTION 5. Section 13-3, Hawaii Revised Statutes, is amended
20 by amending subsection (a) to read as follows:

21 "(a) [~~Members~~] Elected members of the board of education
22 shall be nominated at a primary election and elected at the
23 general election. Except as otherwise provided by this chapter,

1 the candidates for the board of education shall be elected in the
2 manner prescribed by this title.

3 (1) Nomination papers, preparation of. The chief election
4 officer shall prepare nomination papers in such a
5 manner that a candidate desiring to file for election
6 to the board of education shall be able to specify
7 whether the candidate is seeking a seat requiring
8 residency in a particular departmental school district
9 or a seat without such residency requirement.

10 (2) Ballot. The school board ballot shall be prepared in
11 such a manner as to afford every voter eligible to vote
12 in a school board district race the opportunity to vote
13 for each and every candidate seeking election from that
14 school board district.

15 The school board ballot shall contain the names of all
16 board candidates arranged alphabetically in a
17 nonpartisan manner; provided that the names of
18 candidates seeking seats requiring residency in a
19 particular departmental school district shall be
20 grouped alphabetically according to departmental school
21 districts.

22 (3) Primary election. Two candidates receiving the most
23 votes for each available seat shall be nominated for

1 the general election. If, after the close of filing of
2 nomination papers, there are only two qualified
3 candidates for any seat requiring residency in a
4 particular departmental school district, the chief
5 election officer shall declare those two candidates
6 duly nominated for the general election. The names of
7 those two candidates shall not appear on the primary
8 election ballot.

9 (4) General election. Each voter in the general election
10 shall be entitled to receive the school board ballot
11 and to vote for the number of seats available in the
12 respective school board districts."

13 SECTION 6. Section 13-4, Hawaii Revised Statutes, is amended
14 by amending subsection (a) to read as follows:

15 "(a) The term of office of elected members of the board
16 shall be for four years beginning on the day of the special
17 election held in conjunction with the general election of the
18 year in which they are elected and ending on the day of the
19 special election held in conjunction with the second general
20 election after their election, except as provided in subsection
21 (c). Members of the board may be re-elected without restriction
22 as to the number of terms. The voting member of the board of

1 education appointed by the governor shall be appointed in the
2 manner provided in section 26-34."

3 SECTION 7. Section 26-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§26-12 Department of education.** [~~The department of~~
6 ~~education shall be headed by an executive board to be known as~~
7 ~~the board of education.~~
8 ~~Under policies established by the board, the superintendent shall~~
9 ~~administer programs of education and public instruction~~
10 ~~throughout the State, including education at the preschool,~~
11 ~~primary, and secondary school levels, adult education, school~~
12 ~~library services, health education and instruction (not including~~
13 ~~dental health treatment transferred to the department of health),~~
14 ~~and such other programs as may be established by law. The state~~
15 ~~librarian, under policies established by the board of education,~~
16 ~~shall be responsible for the administration of programs relating~~
17 ~~to public library services and transcribing services for the~~
18 ~~blind.]~~

19 (a) The department of education shall be headed by an
20 executive board to be known as the board of education. As
21 provided by law, the board of education shall formulate
22 educational policies for the State's single statewide public
23 school system. The public charter school authority established

1 in chapter 302B is placed in the department for administrative
2 purposes as defined in section 26-35.

3 (b) The department shall:

- 4 (1) Serve as the State's state educational agency for
5 purposes of all federal laws, federal educational
6 programs, and federal funding programs, and as the
7 central support system responsible for the overall
8 administration of statewide educational policy,
9 development of standards for compliance with federal
10 laws, and the submission of a single budget for the
11 public schools, including the public charter schools;
- 12 (2) Serve as the local educational agency for all of the
13 State's public schools other than its public charter
14 schools, for purposes of all federal laws, federal
15 educational programs, and federal funding programs, and
16 serve as the central support system responsible for the
17 overall administration of education policy, compliance
18 with federal and state laws, and the preparation of a
19 budget for the department and all public schools other
20 than public charter schools;
- 21 (3) Through the superintendent of education, provide for
22 the internal organization, operation, and management,
23 and administer all programs of education and public

1 instruction, including education at the preschool,
2 primary, and secondary school levels, adult education,
3 school library services, and such other programs as may
4 be established by law, in all public schools other than
5 public charter schools;

6 (4) Provide support to the public charter school authority
7 and the State's public charter schools, as it is
8 authorized, directed, able to, or required by statute;
9 and

10 (5) Have control, through the state librarian, over the
11 operation and management of the public library system.

12 (c) The functions and authority heretofore exercised by the
13 department of education (except dental health treatment
14 transferred to the department of health), library of Hawaii,
15 Hawaii county library, Maui county library, and the transcribing
16 services program of the bureau of sight conservation and work
17 with the blind, as heretofore constituted are transferred to the
18 public library system established by [~~this chapter.~~] Act 1,
19 Second Special Session Laws of Hawaii 1959.

20 (d) The management contract between the board of
21 supervisors of the county of Kauai and the Kauai public library
22 association shall be terminated at the earliest time after
23 November 25, 1959, permissible under the terms of the contract

1 and the provisions of this paragraph shall constitute notice of
2 termination, and the functions and authority heretofore exercised
3 by the Kauai county library as heretofore constituted and the
4 Kauai public library association over the public libraries in the
5 county of Kauai shall thereupon be transferred to the public
6 library system established by [~~this chapter.~~] Act 1, Second
7 Special Session Laws of Hawaii 1959.

8 (e) The management contracts between the trustees of the
9 library of Hawaii and the Friends of the Library of Hawaii, and
10 between the library of Hawaii and the Hilo library and reading
11 room association, shall be terminated at the earliest time after
12 November 25, 1959, permissible under the terms of the contracts,
13 and the provisions of this paragraph shall constitute notice of
14 termination.

15 (f) Upon the termination of the contracts, the State or the
16 counties shall not enter into any library management contracts
17 with any private association; provided that in providing library
18 services the board of education may enter into contracts approved
19 by the governor for the use of lands, buildings, equipment, and
20 facilities owned by any private association.

21 (g) Notwithstanding any law to the contrary, the board of
22 education may establish, specify the membership number and quorum
23 requirements for, appoint members to, and disestablish a

1 commission in each county to be known as the library advisory
2 commission, which shall in each case sit in an advisory capacity
3 to the board of education on matters relating to public library
4 services in their respective county."

5 SECTION 8. Section 28-8.3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§28-8.3 Employment of attorneys.** (a) No department of
8 the State other than the attorney general may employ or retain
9 any attorney, by contract or otherwise, for the purpose of
10 representing the State or the department in any litigation,
11 rendering legal counsel to the department, or drafting legal
12 documents for the department; provided that the foregoing
13 provision shall not apply to the employment or retention of
14 attorneys:

- 15 (1) By the public utilities commission, the labor and
16 industrial relations appeals board, and the Hawaii
17 labor relations board;
- 18 (2) By any court or judicial or legislative office of the
19 State;
- 20 (3) By the legislative reference bureau;
- 21 (4) By any compilation commission that may be constituted
22 from time to time;

- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the trustees for any action involving the travel
- 6 agency recovery fund;
- 7 (8) By the office of Hawaiian affairs;
- 8 (9) By the department of commerce and consumer affairs for
- 9 the enforcement of violations of chapters 480 and 485;
- 10 (10) As grand jury counsel;
- 11 (10) As grand jury counsel;
- 12 (11) By the Hawaiian home lands trust individual claims
- 13 review panel;
- 14 (12) By the Hawaii health systems corporation or any of
- 15 its facilities;
- 16 (13) By the auditor;
- 17 (14) By the office of ombudsman;
- 18 (15) By the insurance division;
- 19 (16) By the University of Hawaii;
- 20 (17) By the Kahoolawe island reserve commission;
- 21 (18) By the division of consumer advocacy; ~~for~~
- 22 (19) By the office of elections;
- 23 ~~(20)~~ By the campaign spending commission; ~~for~~

1 (21) By the public charter school authority established in
2 section 302B-4; or

3 ~~+(21)+~~ (22) By a department, in the event the attorney
4 general, for reasons deemed by the attorney general
5 good and sufficient, declines, to employ or retain an
6 attorney for a department; provided that the governor
7 thereupon waives the provision of this section.

8 (b) For purposes of this section the term "department"
9 includes any department, board, commission, agency, bureau, or
10 officer of the State.

11 (c) Every attorney employed by any department on a full-
12 time basis, except an attorney employed by the public utilities
13 commission, the labor and industrial relations appeals board, the
14 Hawaii labor relations board, the office of Hawaiian affairs, the
15 Hawaii health systems corporation, the department of commerce and
16 consumer affairs in prosecution of consumer complaints, insurance
17 division, the division of consumer advocacy, the University of
18 Hawaii, the Hawaiian home lands trust individual claims review
19 panel, the charter school administrative office, or as grand jury
20 counsel, shall be a deputy attorney general.

21 (d) All attorneys retained by contract, whether by the
22 attorney general or a department, shall be retained in accordance

1 with chapter 103D~~[.]~~ unless the retention is otherwise excepted
2 from chapter 103D."

3 SECTION 9. Section 89-6(g), Hawaii Revised Statutes, is
4 amended to read as follows:

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

- 8 (1) Elected or appointed official;
- 9 (2) Member of any board or commission excluding
10 members of local school boards as defined in
11 section 302B-14;
- 12 (3) Top-level managerial and administrative personnel,
13 including the department head, deputy or assistant
14 to a department head, administrative officer,
15 director, or chief of a state or county agency or
16 major division, and legal counsel;
- 17 (4) Secretary to top-level managerial and
18 administrative personnel under paragraph (3);
- 19 (5) Individual concerned with confidential matters
20 affecting employee-employer relations;
- 21 (6) Part-time employee working less than twenty hours
22 per week, except part-time employees included in
23 bargaining unit (5);

- 1 (7) Temporary employee of three months' duration or
- 2 less;
- 3 (8) Employee of the executive office of the governor
- 4 or a household employee at Washington Place;
- 5 (9) Employee of the executive office of the lieutenant
- 6 governor;
- 7 (10) Employee of the executive office of the mayor;
- 8 (11) Staff of the legislative branch of the State;
- 9 (12) Staff of the legislative branches of the counties,
- 10 except employees of the clerks' offices of the
- 11 counties;
- 12 (13) Any commissioned and enlisted personnel of the
- 13 Hawaii national guard;
- 14 (14) Inmate, kokua, patient, ward, or student of a
- 15 state institution;
- 16 (15) Student help;
- 17 (16) Staff of the Hawaii labor relations board;
- 18 (17) Employee of the Hawaii national guard youth
- 19 challenge academy; or
- 20 (18) Employees of the office of elections.

21 SECTION 10. Section 302A-301, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:

1 "(a) There is established in the state treasury a trust
2 fund to be known as the incentive and innovation grant trust fund
3 to provide incentive and innovation grants to qualified
4 schools~~[-.]~~, including public charter schools. Expenditures from
5 the trust fund shall be made by the department and shall be
6 subject to the allotment and expenditure plan required under
7 section 37-34.5. Notwithstanding any other law to the contrary,
8 tax deductible donations may be made to, and received by, this
9 trust fund."

10 SECTION 11. Section 302A-1101, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) There shall be a principal executive department to be
13 known as the department of education, which shall be headed by
14 ~~[an elected]~~ a policy-making board to be known as the board of
15 education. The board shall have power in accordance with law to
16 formulate statewide educational policy, adopt student performance
17 standards and assessment models, monitor school success, and to
18 appoint the superintendent of education as the chief executive
19 officer of ~~[the public school system.]~~ that subsystem of the
20 State's single statewide system of public schools that does not
21 include the State's public charter schools. The public charter
22 school authority established in chapter 302B is placed in the

1 department for administrative purposes as defined in section 26-
2 35."

3 SECTION 12. Section 302A-1102, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[+]§302A-1102[+]~~ **Department of education; statewide and**
6 **regional administrative services.** ~~[The department shall serve as~~
7 ~~the central support system responsible for the overall~~
8 ~~administration of statewide educational policy, interpretation,~~
9 ~~and development of standards for compliance with state and~~
10 ~~federal laws, and coordination and preparation of a systemwide~~
11 ~~budget for the public schools.]~~ The department shall serve as the
12 as the central support system responsible for the overall
13 administration of statewide educational policy, development of
14 standards for compliance with federal laws, and the submission of
15 a single budget for the public schools, including the public
16 charter schools. The department shall also serve as the central
17 support system responsible for the overall administration of
18 education policy, compliance with federal and state laws, and the
19 preparation of a budget for the department and all public schools
20 other than public charter schools. The department may establish
21 regional administrative units to provide administrative support
22 to the schools for personnel, fiscal, and procurement services.
23 The regional administrative units may also be assigned

1 responsibility for the administration and operation of special
2 education programs and special schools."

3 SECTION 13. Section 302A-1111, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§302A-1111[+] **Duties of superintendent.** (a) Under
6 policies established by the board, the superintendent shall be
7 designated as the chief executive officer [~~of the public school~~
8 ~~system having~~] of that subsystem of the State's single statewide
9 system of public schools that does not include the State's public
10 charter schools. The superintendent shall have jurisdiction over
11 the internal organization, operation, and management of [~~the~~
12 ~~public school system, as provided by law,~~] all public schools
13 other than public charter schools; and shall administer programs
14 of education and public instruction [~~throughout the State,~~] in
15 those public schools, including education at the preschool,
16 primary, and secondary school levels, and such other programs as
17 may be established by law.

18 (b) Except as otherwise provided, the superintendent shall
19 sign all drafts for the payment of moneys, all commissions and
20 appointments, all deeds, official acts, or other documents of the
21 department[~~-~~], except documents prepared or received by the
22 public charter school authority established under chapter 302B.

23 The superintendent may use a printed facsimile signature in

1 approving appointments, contracts, and other documents. The
2 superintendent, at such time as may be prescribed by the board,
3 shall present to the board full annual reports of the principal
4 transactions within the department during the last completed
5 year, which reports together with such recommendations as the
6 board may think proper, shall be presented to the governor and
7 the legislature."

8 SECTION 14. Section 302A-1128, Hawaii Revised Statutes, is
9 amended to read as follows:

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

1 (b) The department shall regulate the courses of study to
2 be pursued in all grades of the public schools it establishes and
3 maintains, and classify them by methods the department deems
4 proper; provided that:

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

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

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

14 The department shall develop statewide education policies
15 and guidelines based on this subsection without regard to chapter
16 91.

17 For the purposes of this subsection, the terms
18 "progressively competent in the use of computer technology" and
19 "competence in a language in addition to English" shall be
20 defined by policies adopted by the board. The board shall
21 formulate statewide education policies allowing the
22 superintendent to exempt certain students from the requirements
23 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 15. Section 302A-1402, Hawaii Revised Statutes, is
4 amended to read as follows:

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

15 SECTION 16. Section 302A-1403, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§302A-1403[+] **Authority to secure federal funds.** The
18 department, the public charter school authority, director of
19 finance, and governor may take such steps and perform such acts
20 as may be necessary or proper in order to secure any such federal
21 funds for the purposes specified in sections 302A-1401 and 302A-
22 1402."

1 SECTIION 17. Section 302A-1404, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~**302A-1404**~~§~~ **Federal indirect overhead reimbursements.**

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

11 SECTION 18. Chapter 302A, part IV, subpart D, Hawaii
12 Revised Statutes, is repealed.

13 SECTION 19. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 20. No later than twenty days prior to the
16 convening of the regular session of 2007, the superintendent of
17 education and the public charter school authority, through the
18 executive director of the charter school administrative office
19 established by this Act, shall identify and submit a list of a
20 sufficient number of positions authorized to the department of
21 education in units and locations other than its schools, for the
22 purpose of delivering special education services in the public
23 schools, so that the positions may be transferred to the public

1 charter school authority by the legislature to enable the
2 authority to satisfy all of the responsibilities of a local
3 educational agency for the State's public charter schools as
4 contemplated under this Act.

5 SECTION 21. This Act shall take effect on July 1, 2006;
6 provided that

7 (1) Sections 4, 5, 6, 7, 10, 11, 12, and all provisions of
8 this Act that make the public charter school authority
9 established in Part I of this Act a local educational
10 agency for purposes of all federal laws, federal
11 educational programs, and federal funding programs,
12 shall take effect upon the ratification of the
13 constitutional amendments proposed in ____ B. Nos. ____
14 and ____; and

15 (2) Section 302A-1188, Hawaii Revised Statutes, shall not be
16 repealed, and the provisions that make the public
17 charter school authority a local educational agency for
18 purposes of special education and require it to ensure
19 that disabled students enrolled in public charter
20 schools receive all they are entitled to under the
21 federal law, shall not take effect, until July 1 of the
22 fiscal year in which a sufficient number of special
23 education-related positions authorized to the department

1 of education for these purposes and needed by the public
2 charter school authority to serve as a local education
3 agency for purposes of special education are transferred
4 to the public charter school authority.

5

INTRODUCED BY:

Calvin H. Long

BY REQUEST

JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: RELATING TO CHARTER SCHOOLS

PURPOSE: The purpose of this bill is to reiterate the objectives of the State's public charter schools; enhance and provide sufficient organizational support to sustain the independence of charter schools; set out the powers and responsibilities of charter schools clearly; and provide charter schools with the resources they need to educate their students.

MEANS: Add a new Chapter 302B to the Hawaii Revised Statutes; amend sections 13-1(a), 13-3(a), 13-4(a), 26-12, 28-8.3, 89-6(f)(2), 302A-301(a), 302A-1101(a), 302A-1102, 302A-1111, 302A-1128, 302A-1402, 302A-1403, and 302A-1404, Hawaii Revised Statutes; and repeals subpart D of Part IV of Chapter 302A, Hawaii Revised Statutes.

JUSTIFICATION: Currently, the Department of Education serves as both the State Educational Agency (SEA) and the Local Educational Agency. Creating a public charter school authority as a separate LEA from the Department of Education will allow charter schools to more efficiently apply for, receive, and disburse federal charter school program grant monies.

Current law grants only the Charter School Review Board of the state Board of Education the authority to grant charters to schools. Since the Department of Education operates as both the SEA and an LEA, the Board of Education has little incentive to create schools that compete with existing district schools. Allowing multiple chartering authorities grants groups a broader range of paths to obtaining a charter, brings the resources of outside entities and organizations to bear on K12 problems, and helps to ensure accountability through a strong authorizer/school relationship.

Allowing a combination of individuals, groups of parents, organization and non-profit groups to apply for a charter would bring a wealth of outside resources into new charter schools and would best reflect the wishes of the schools most important customers - students and parents.

Charter schools should be allowed to operate outside of most of the burdensome regulations placed on regular district schools in order to fulfill their mission. In addition, such autonomy promotes a culture of accountability within a charter school, helping to ensure success.

Current law provides no per-pupil allotment for facilities as is incorporated into capital funding for district schools. Consequently, Hawaii's charter schools are ineligible to compete for federal charter school facilities incentive grants that match state contributions to charter school facilities acquisition at a ratio of eight federal dollars for every state dollar.

Impact on the public: The public will benefit from greater school choice and increased student achievement. A stronger charter school law will encourage individuals, groups, and communities to create start-up charter schools. The increased flexibility in funding and the receipt of federal funds will enable charter schools to run more efficiently and empower them to provide their students with healthy and safe learning environments. The measures of accountability will enable the State to provide measurable outcomes regarding the success of charter schools and assist in the identification of areas for improvement.

Impact on the department and other agencies:

The measure would ease the administrative burden on the Department of Education and Board of Education by empowering the public

charter school authority to function as a Local Education Agency (LEA).

The measure will result in better administration of a successful public charter school program by giving the public charter school authority, the public school chartering board, and the director of the charter school administrative office flexibility and true authority over the implementation of the State's charter school laws.

The Department of Accounting and General Services, Department of Education, and the University of Hawaii will assist the public charter schools with the identification of vacant facilities and equipment. The Department of Human Resources Development, Department of Accounting and General Services, and the Department of Education may contract services with the public charter schools.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: EDN 600.

OTHER AFFECTED
AGENCIES: All.

EFFECTIVE DATE: July 1, 2006, except for those provisions relating to the transfer of the responsibility to act as the public charter schools' LEA for purposes of special education, which should take effect on July 1, 2007, or when sufficient positions are transferred from the Department of Education to the Public Charter School Authority to satisfy that responsibility.