
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

PART I

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SECTION 1. The purpose of this Act is to adopt numerous priority proposals developed by the task force on charter school governance established by Act 87, Session Laws of Hawaii 2005, by:

- (1) Repealing part IV, subpart D, of chapter 302A, Hawaii Revised Statutes, relating to new century charter schools and establishing a new chapter in the Hawaii Revised Statutes for the administration and governance of charter schools, designated as chapter 302B, Hawaii Revised Statutes;
- (2) Reorganizing sections of the law to create clarity, including separating sections for the establishment of start-ups and conversion schools;
- (3) Reclassifying programs within schools seeking to become charter schools as "conversion" schools rather than start-up schools;



1 (4) Enhancing and clarifying the powers and duties of the
2 charter school administrative office;

3 (5) Renaming the charter school review panel as the
4 charter school authorization panel, expand its
5 membership, and assigning this panel the role of
6 authorizer;

7 (6) Setting an annual limit to new charter schools based
8 in part on the existing charter schools accredited by
9 the Western Association of Schools and Colleges;

10 (7) Empowering the local school boards to negotiate
11 supplemental or second-tier collective bargaining
12 agreements with the exclusive representatives of their
13 employees; and

14 (8) Making various other amendments to the Hawaii Revised
15 Statutes consistent with the new charter schools law.

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

18 "CHAPTER 302B

19 PUBLIC CHARTER SCHOOLS

20 §302B-1 Purpose. The purpose of this chapter is to
21 authorize the establishment of a charter school system and set
22 forth standards for the governance, administration, support,



1 financing, autonomy, and accountability for charter schools,
2 including start-up charter schools and conversion charter
3 schools.

4 The charter school system is an important complement to the
5 department of education's school system, one that empowers local
6 school boards and their charter schools by allowing more
7 autonomy and flexibility and placing greater responsibility at
8 the school level. The charter school system is made up of the
9 charter school administrative office, the charter school
10 authorization panel, and individual charter schools with
11 differing visions, missions, and approaches meeting the various
12 needs and desires of Hawaii's communities.

13 The purposes of the charter school system include but are
14 not limited to:

- 15 (1) Providing administrators, parents, students, and
16 teachers with expanded alternative public school
17 choices in the types of schools, educational programs,
18 opportunities, and settings, including services to
19 underserved populations, geographical areas, or
20 communities; and
21 (2) Encouraging and, when resources and support are
22 provided, serving as a research venue for the



1 development, use, and dissemination of alternative and
2 innovative approaches to educational governance,
3 financing, administration, curricula, technology, and
4 teaching strategies.

5 **§302B-2 Definitions.** Whenever used in this chapter,
6 unless the context otherwise requires:

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

- 9 (1) Review applications for new charter schools;
- 10 (2) Issue new charters;
- 11 (3) Ensure that detailed implementation plans and
12 performance contracts are designed to maximize school
13 financial and academic success;
- 14 (4) Periodically review existing charter school
15 operations;
- 16 (5) Renew charters;
- 17 (6) Adopt administrative rules, policies, and guidelines;
- 18 (7) Assist and support charter schools;
- 19 (8) Facilitate needed training; and
- 20 (9) If necessary, revoke a charter.

21 "Charter school" refers to those public schools holding
22 charters to operate as charter schools or conversion charter



1 schools under this chapter, with the flexibility to implement
2 alternative frameworks with regard to curriculum, facilities
3 management, instructional approach, length of the school day,
4 week, or year, and personnel management.

5 "Charter school authorization panel" means the panel
6 established in section 302B-4, with the powers and duties of a
7 charter school authorizer.

8 "Conversion charter school" means:

- 9 (1) Any existing department of education school that
10 converts to a charter school and is managed and
11 operated in accordance with section 302B-7;
- 12 (2) Any existing department of education school that
13 converts to a charter school and is managed and
14 operated by a nonprofit organization in accordance
15 with section 302B-7; or
- 16 (3) The creation of a new school, comprising programs or
17 sections of existing public school populations and
18 using existing public school facilities.

19 "Department" means the department of education.

20 "Detailed implementation plan" means a performance contract
21 between the authorizer of a charter school and the charter
22 school in which the rights, duties, responsibilities, collective



1 bargaining role, support, resources, and expectations of the
2 authorizer, other state agencies, and the charter school are
3 identified.

4 "Executive director" means the executive director of the
5 charter school administrative office.

6 "Local school board" means the autonomous governing body of
7 a charter school that receives the charter and is responsible
8 for the financial and academic viability of the charter school,
9 implementation of the charter, the organization and management
10 of the school, the curriculum, and compliance with applicable
11 federal and state laws. The local school board shall have the
12 power to negotiate supplemental or second-tier collective
13 bargaining agreements with exclusive representatives of their
14 employees.

15 "Nonprofit organization" means a private, nonprofit, tax-
16 exempt entity that:

- 17 (1) Is recognized as a tax-exempt organization under
18 section 501(c)(3) of the Internal Revenue Code of
19 1986, as amended;
- 20 (2) Is domiciled in this State; and
- 21 (3) Makes a minimum annual contribution of \$1 per pupil
22 toward the operation of a conversion charter school



1 for every \$4 per pupil allocated by the charter school
2 administrative office for the operation of the
3 conversion charter school.

4 "Office" means the charter school administrative office.

5 **§302B-3 Existing charter schools.** Any charter school or
6 conversion charter school holding a charter to operate under
7 part IV, subpart D, of chapter 302A as that subpart existed
8 before the effective date of this Act shall be considered
9 charter schools for the purposes of this chapter.

10 **§302B-4 Charter school authorization panel; establishment;
11 powers and duties.** (a) There is established a charter school
12 authorization panel within the department of education. The
13 authorization panel shall be composed of nine members as
14 follows:

15 (1) Two members shall be board of education members or
16 their designees appointed by the chairperson of the
17 board of education;

18 (2) Two members shall be members of the charter school
19 community appointed by the chairperson of the board of
20 education from a list submitted by existing charter
21 schools;



1 (3) Two members shall be current or former members of a
2 charter school local school board appointed by the
3 executive director;

4 (4) One member shall be appointed by the dean of the
5 University of Hawaii's college of education;

6 (5) One member shall be a representative of the business
7 community appointed by chairperson of the board of
8 education; and

9 (6) One member shall be the executive director or the
10 executive director's designee, who shall serve as
11 chair.

12 (b) The charter school authorization panel shall serve as
13 the charter school authorizer.

14 **§302B-5 Limits on charter schools.** (a) Beginning in July
15 2006, up to a total of _____ new schools in addition to
16 those in existence on the effective date of this Act may be
17 established during each fiscal year as charter schools,
18 including start-up and conversion charter schools.

19 Within this annual limit of _____ new charter schools,
20 the charter school authorization panel may authorize new charter
21 schools under the following conditions:



1 (1) Beginning in July 2006, one new charter school may be
2 authorized for each charter school that has received
3 Western Association of Schools and Colleges
4 accreditation for three years or more; and

5 (2) The executive director determines that the charter
6 school administrative office has the capacity to
7 assist the existing charter schools as well as
8 accommodate the support needs of any newly chartered
9 schools.

10 (b) The limits in this section shall not apply to
11 department of education schools in restructuring seeking to
12 convert to charter schools in accordance with the federal No
13 Child Left Behind Act of 2001 (Public Law 107-110).

14 **§302B-6 Charter schools; establishment.** (a) New start-up
15 charter schools may be established by the creation of a new
16 school pursuant to this section.

17 (b) Any community, group of teachers, group of teachers
18 and administrators, or entity recognized as a nonprofit
19 organization under section 501(c)(3) of the Internal Revenue
20 Code of 1986, as amended, may submit a letter of intent to the
21 charter school authorization panel to form a charter school,
22 establish a local school board as its governing body, and



1 develop a detailed implementation plan pursuant to subsection
2 (c).

3 (c) The local school board, with the support and guidance
4 of the executive director, shall formulate and develop a
5 detailed implementation plan that meets the requirements of this
6 subsection and section 302B-10. The plan shall include the
7 following:

8 (1) A description of employee rights and management issues
9 and a framework for addressing those issues that
10 protects the rights of employees;

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

13 (3) A plan for identifying, recruiting, and selecting
14 students that is not exclusive, elitist, or
15 segregationist;

16 (4) The curriculum and instructional framework to be used
17 to achieve student outcomes, including an assessment
18 plan;

19 (5) A comprehensive plan for the assessment of student,
20 administrative support, and teaching personnel
21 performance that:

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



1 (B) Incorporates or exceeds the educational content
2 and performance standards developed by the
3 department of education for the public school
4 system;

5 (C) Includes a system of faculty and staff
6 accountability that holds faculty and staff both
7 individually and collectively accountable for
8 their performance, and that is at least
9 equivalent to the average system of
10 accountability in public schools throughout the
11 State; and

12 (D) Provides for program audits and annual financial
13 audits;

14 (6) A governance structure for the school that
15 incorporates a conflict of interest policy and a plan
16 for periodic training of local school board members;

17 (7) A financial plan based on the most recent fiscal
18 year's per-pupil charter school allocation that
19 demonstrates the ability to meet the financial
20 obligations of one-time start-up costs and ongoing
21 costs such as monthly payrolls, faculty recruitment,
22 professional development, and facilities costs; and



1 (8) A plan for any necessary design, construction,
2 renovation, and management of facilities that is
3 consistent with the state facilities plan; provided
4 that:

5 (A) If the facilities management plan includes use of
6 existing school facilities, the charter school
7 shall receive authorization from the
8 administrator responsible for the facilities; and

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

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

19 If the panel determines that the implementation plan:

20 (1) Meets the requirements of subsection (c) and section
21 302B-10, the panel, by the sixtieth working day, may
22 issue a charter to the proposed charter school. The



1 implementation plan shall be converted to a written
2 performance contract between the school and the panel;
3 provided that if the panel does not issue a charter,
4 the panel shall:

5 (A) Clearly identify its reasons for not issuing the
6 charter; and

7 (B) Allow the local school board to revise its plan,
8 in accordance with the panel's reasons for
9 rejecting the plan, and resubmit the amended
10 plan; or

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

13 (A) Shall notify the local school board of the
14 finding in writing to enable the local school
15 board to appropriately amend the plan to address
16 the findings; and

17 (B) May issue a provisional approval for a charter if
18 the panel determines that the applicant may
19 reasonably be expected to expeditiously resolve
20 any remaining findings impeding the issuance of a
21 charter. The provisional approval shall be



1 effective for one year. The panel may extend the
2 provisional approval beyond a period of one year.

3 (e) An amended implementation plan shall be submitted
4 within thirty working days of notification pursuant to
5 subsection (d)(2)(A). The charter school authorization panel
6 shall deny the issuance of a charter if the local school board
7 does not submit an amended implementation plan within the thirty
8 working day period. The panel shall have thirty working days to
9 review the amended implementation plan. If the amended
10 implementation plan:

- 11 (1) Meets the requirements of subsection (c) and section
12 302B-10, the panel, by the thirtieth working day,
13 shall issue a charter to the proposed charter school.
14 If a charter is issued, the amended implementation
15 plan shall be converted to a written performance
16 contract between the school and the panel; or
17 (2) Fails to address the findings to the panel's
18 satisfaction, the panel shall deny issuance of a
19 charter.

20 (f) A local school board may file an appeal of the denial
21 of an application for a charter with the board of education.
22 Upon filing an appeal, the panel shall forward the

1 implementation plan and appropriate documentation of the appeal
2 to the board of education. Within thirty working days, the
3 board of education shall issue a report of its findings and
4 final determination to the local school board. If the
5 implementation plan is approved by the board of education, the
6 charter school authorization panel shall issue a charter and the
7 implementation plan shall be converted to a written performance
8 contract between the school and the authorization panel.

9 (g) The authorization panel shall adopt rules pursuant to
10 chapter 91 to further guide the panel's review process.

11 **§302B-7 Conversion charter schools; establishment.** (a)
12 Conversion charter schools may be established by the charter
13 school authorization panel pursuant to this section.

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



1 (c) The local school board, with the support and guidance
2 of the executive director, shall formulate and develop a
3 detailed implementation plan that meets the requirements of this
4 subsection and section 302B-10. The plan shall include the
5 following:

6 (1) A description of employee rights and management issues
7 and a framework for addressing those issues that
8 protects the rights of employees;

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

11 (3) A plan for identifying, recruiting, and selecting
12 students that is not exclusive, elitist, or
13 segregationist;

14 (4) The curriculum and instructional framework to be used
15 to achieve student outcomes, including an assessment
16 plan;

17 (5) A comprehensive plan for the assessment of student,
18 administrative support, and teaching personnel
19 performance that:

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

21 (B) Incorporates or exceeds the educational content
22 and performance standards developed by the



1 department of education for the public school
2 system;

3 (C) Includes a system of faculty and staff
4 accountability that holds faculty and staff both
5 individually and collectively accountable for
6 their performance, and that is at least
7 equivalent to the average system of
8 accountability in public schools throughout the
9 State; and

10 (D) Provides for program audits and annual financial
11 audits;

12 (6) A governance structure for the school that
13 incorporates a conflict of interest policy and a plan
14 for periodic training of local school board members;

15 (7) A financial plan based on the most recent fiscal
16 year's per-pupil charter school allocation that
17 demonstrates the ability to meet the financial
18 obligations of one-time start-up costs and ongoing
19 costs such as monthly payrolls, faculty recruitment,
20 professional development, and facilities costs; and

21 (8) A plan for any necessary design, construction,
22 renovation, and management of facilities that is



1 consistent with the state facilities plan; provided
2 that:

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

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

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

18 If the panel determines that the implementation plan:

19 (1) Meets the requirements of subsection (c) and section
20 302B-10, the panel, by the sixtieth working day, may
21 issue a charter to the proposed conversion charter
22 school. The implementation plan shall be converted to



1 a written performance contract between the school and
2 the panel; provided that if the panel does not issue a
3 charter, the panel shall:

4 (A) Clearly identify its reasons for not issuing the
5 charter; and

6 (B) Allow the local school board to revise its plan,
7 in accordance with the panel's reasons for
8 rejecting the plan, and resubmit the amended
9 plan; or

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

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

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



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

9 (1) Meets the requirements of subsection (c) and section
10 302B-10, the panel, by the thirtieth working day,
11 shall issue a charter to the proposed conversion
12 charter school. If a charter is issued, the amended
13 implementation plan shall be converted to a written
14 performance contract between the school and the panel;
15 or

16 (2) Fails to address the findings to the panel's
17 satisfaction, the panel shall deny issuance of a
18 charter.

19 (f) A local school board may file an appeal of the denial
20 of an application for a charter with the board of education.
21 Upon filing an appeal, the panel shall forward the
22 implementation plan and appropriate documentation of the appeal



1 to the board of education. Within thirty working days, the
2 board of education shall issue a report of its findings and
3 final determination to the local school board. If the
4 implementation plan is approved by the board of education, the
5 charter school authorization panel shall issue a charter and the
6 implementation plan shall be converted to a written performance
7 contract between the school and the authorization panel.

8 (g) The authorization panel shall adopt rules pursuant to
9 chapter 91 to further guide the panel's review process.

10 (h) A nonprofit organization may submit a letter of intent
11 to the charter school administrative office to convert a
12 department of education school to a charter school, operate and
13 manage the school, establish a local school board as its
14 governing body, and develop a detailed implementation plan
15 pursuant to subsection (c); provided that:

16 (1) The local school board as the governing body of the
17 conversion charter school shall be composed of the
18 board of directors of the nonprofit organization and
19 not the participants specified in section 302B-8. The
20 nonprofit organization may also appoint advisory
21 panels of community representatives for each school
22 managed by the organization, with whom the



1 organization may consult; provided that these panels
2 shall not have governing authority over the school and
3 shall serve only in an advisory capacity to the
4 nonprofit organization;

5 (2) The detailed implementation plan for each conversion
6 charter school to be operated by the nonprofit
7 organization shall be formulated, developed, and
8 submitted by the nonprofit organization, and shall be
9 approved by a majority of the votes cast by existing
10 administrative, support, and teaching personnel, and
11 parents of the students of the proposed conversion
12 charter school; provided that the school personnel may
13 request their collective bargaining unit
14 representative to certify and conduct the elections
15 for their respective bargaining units;

16 (3) After the detailed implementation plan for a
17 conversion charter school operated and managed by the
18 nonprofit organization has been approved by the
19 charter school authorization panel as provided in
20 subsection (d) or (e), the charter school
21 authorization panel shall issue a charter, and the
22 implementation plan shall be converted to a written



1 performance contract between the nonprofit
2 organization and the panel, under which the conversion
3 charter school shall be managed and operated as a
4 division of the nonprofit organization and shall have
5 the same relationship with the charter school
6 administrative office as any other local school board
7 for a charter school;

8 (4) The board of directors of the nonprofit organization,
9 as the governing body for the conversion charter
10 school that it operates and manages, shall have the
11 same protections that are afforded to the state board
12 of education;

13 (5) Any conversion charter school that is managed and
14 operated by a nonprofit organization shall be eligible
15 for the same federal and state funding as other public
16 schools; provided that the nonprofit organization may
17 allocate federal and state funds among two or more of
18 the conversion charter schools that it operates and
19 manages to the extent permitted by law;

20 (6) If, at any time, the board of directors of the
21 nonprofit organization governing the conversion
22 charter school votes to discontinue its relationship



1 with the charter school, the charter school may submit
2 an application to the charter school authorization
3 panel to continue as a conversion school without the
4 participation of the nonprofit organization; and

5 (7) If, at any time, the conversion charter school
6 dissolves or the charter is revoked, the State shall
7 have first right, at no cost to the State, to all the
8 assets and facilities of the conversion charter
9 school, except as provided in the detailed
10 implementation plan.

11 (i) Any nonprofit organization that seeks to manage or
12 operate a conversion charter school as provided in subsection
13 (h) shall comply with the following at the time of application:

14 (1) Have bylaws or policies that describe the manner in
15 which business is conducted and policies that relate
16 to the management of potential conflict of interest
17 situations;

18 (2) Have experience in the management and operation of
19 public or private schools, or, to the extent
20 necessary, agree to obtain appropriate services from
21 another entity or entities possessing such experience;



1 (3) Comply with all applicable federal, state, and county
2 laws, including licensure or accreditation, as
3 applicable; and

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

8 (j) Any public school or schools, programs, or sections of
9 existing public school populations using existing public school
10 facilities may submit a letter of intent to the charter school
11 authorization panel to form a conversion charter school,
12 establish a local school board as its governing body, and
13 develop a detailed implementation plan pursuant to subsection
14 (c). The detailed implementation plan shall be approved by a
15 majority of the votes cast by existing administrative, support,
16 and teaching personnel, and parents of students at the proposed
17 conversion charter school; provided that the school personnel
18 may request their collective bargaining unit representative to
19 certify and conduct the elections for their respective
20 bargaining units.

21 (k) Unless otherwise provided in this section, the
22 provisions in this chapter, as they relate to charter schools,



1 shall apply to conversion charter schools. In the event of a
2 conflict between the provisions in this section and other
3 provisions in this chapter, this section shall control.

4 **§302B-8 Local school boards; powers and duties.** (a) All
5 local school boards shall be composed of, at a minimum, one
6 representative from each of the following participant groups:

- 7 (1) Principals;
- 8 (2) Instructional staff members selected by the school
9 instructional staff;
- 10 (3) Support staff selected by the support staff of the
11 school;
- 12 (4) Parents of students attending the school selected by
13 the parents of the school;
- 14 (5) Student body representatives selected by the students
15 of the school; and
- 16 (6) The community at large.

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

20 (c) The local school board is the autonomous governing
21 body of a charter school that receives the charter and is
22 responsible for the financial and academic viability of the



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

7 (d) The State shall afford the local school board of any
8 charter school the same protections as the State affords to the
9 board of education.

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



1 (b) The executive director, under the direction of the
2 board of education and charter schools, shall be responsible for
3 the internal organization, operation, and management of the
4 charter school system, including:

5 (1) Preparation and execution of the budget for the
6 charter schools, including submission of the budget
7 request to the board of education, the governor, and
8 the legislature;

9 (2) Allocation of annual appropriations to the charter
10 schools and distribution of federal funds to charter
11 schools;

12 (3) Compliance with applicable state laws related to the
13 administration of the charter schools;

14 (4) Preparation of contracts between the charter schools
15 and the department of education for centralized
16 services to be provided by the department;

17 (5) Preparation of contracts between the charter schools
18 and other state agencies for financial or personnel
19 services to be provided by such agencies to the
20 charter schools;



- 1 (6) Representation of charter schools in communications
- 2 with the board of education, the governor, and the
- 3 legislature;
- 4 (7) Supporting the development, growth, and progress of
- 5 charter schools;
- 6 (8) Convening and chairing the charter school
- 7 authorization panel;
- 8 (9) Establishing a dispute resolution and mediation panel;
- 9 and
- 10 (10) Upon request by one or more charter schools, assisting
- 11 in the negotiation of a collective bargaining
- 12 agreement with the exclusive representative of its
- 13 employees.
- 14 (c) The executive director shall be evaluated annually
- 15 through a process jointly agreed upon by the Hawaii charter
- 16 schools network and the board of education.
- 17 (d) The salary of the executive director and staff shall
- 18 be set by the board of education based upon the recommendations
- 19 of an organization of charter schools within the State; provided
- 20 that the salaries and operational expenses of the charter school
- 21 administrative office shall be paid from the annual charter



1 school appropriation and shall not exceed two per cent of the
2 total allocation in any fiscal year.

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

6 (1) Vacation and sick leave accrued by employees
7 transferring to a charter school from another state
8 agency or department;

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

11 (3) Adjustments to enrollments; and

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

14 (f) The charter school administrative office may withhold
15 funds for unauthorized charter school enrollments that are
16 inconsistent with approved detailed implementation plans.

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

20 **§302B-10 Exemptions from state laws.** (a) Charter schools
21 shall be exempt from chapter 92 and all other state laws in
22 conflict with this chapter, except those regarding:



- 1 (1) Collective bargaining under chapter 89; provided that:
- 2 (A) The exclusive representatives defined in chapter
- 3 89 and the local school board of the charter
- 4 school may enter into supplemental or second-tier
- 5 agreements that contain cost and noncost items to
- 6 facilitate decentralized decisionmaking;
- 7 (B) The agreements shall be funded from the current
- 8 allocation or other sources of revenue received
- 9 by the charter school; provided that collective
- 10 bargaining increases for employees shall be
- 11 allocated by the department of budget and finance
- 12 to the charter school administrative office for
- 13 distribution to charter schools; and
- 14 (C) These supplemental agreements may differ from the
- 15 master contracts negotiated with the department
- 16 of education;
- 17 (2) Discriminatory practices under section 378-2; and
- 18 (3) Health and safety requirements.
- 19 (b) Charter schools and the charter school administrative
- 20 office shall be exempt from county zoning ordinances, rules, and
- 21 regulations that impose undue burdens on charter schools,
- 22 especially those that impose costs the individual school would



1 not be able to absorb, as determined by the charter school
2 administrative office.

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-11 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.

12 (b) The State shall afford administrative, support, and
13 instructional employees in charter schools full participation in
14 the State's systems for retirement, workers' compensation,
15 unemployment insurance, temporary disability insurance, and
16 health benefits in accordance with the qualification
17 requirements for each.

18 (c) The department, to the extent possible, shall provide
19 its position listings to the charter school administrative
20 office and any interested local school board of any charter
21 school.



1 (d) The department, in conjunction with the charter school
2 administrative office, shall facilitate and encourage the
3 movement of instructional personnel between the department and
4 charter schools; provided that:

5 (1) Comparable and verifiable professional development and
6 employee evaluation standards and practices, as
7 determined and certified by the charter school
8 administrative office, are in place in charter schools
9 for instructional staff;

10 (2) Licensed charter school teachers or highly qualified
11 individuals, as determined by the department, who are
12 not yet tenured in the department and are entering or
13 returning to the department after full-time employment
14 of no less than one full school year at a charter
15 school, shall be subject to no more than one year of
16 probationary status; and

17 (3) Tenured department licensed teachers or highly
18 qualified individuals, as determined by the
19 department, who transfer to charter schools shall not
20 be required to serve a probationary period.

21 **§302B-12 Administration of workers' compensation.** The
22 department of human resources development shall administer



1 workers' compensation claims for employees of charter schools,
2 who shall be covered by the same self-insured workers'
3 compensation system as other public employees. The department
4 of human resources development shall process, investigate, and
5 make payments on claims; provided that:

6 (1) Charter schools shall compile the preliminary claim
7 form and forward it to the department of human
8 resources development; and

9 (2) The department of human resources development shall
10 receive no more than 0.07 per cent of the EDN 600
11 appropriation to process these workers' compensation
12 claims.

13 **§302B-13 Funding and finance.** (a) Beginning with fiscal
14 year 2006-2007, and each fiscal year thereafter, the charter
15 school administrative office shall submit a request for general
16 fund appropriations for each charter school based upon:

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

19 (2) A per-pupil amount for each regular education and
20 special education student, which shall be equivalent
21 to the total per-pupil cost based upon average
22 enrollment in all cost categories, including



1 comprehensive school support services but excluding
2 special education services, and for all means of
3 financing except federal funds, as reported in the
4 most recently published department of education
5 consolidated annual financial report; provided that
6 the legislature may make an adjustment to the per-
7 pupil allocation for the purposes of this section; and

8 (3) Those fringe benefit costs requested shall be included
9 in the department of budget and finance's annual
10 budget request. No fringe benefit costs shall be
11 charged directly to or deducted from the charter
12 school per-pupil allocations.

13 The legislature shall make an appropriation based upon the
14 budget request; provided that the legislature may make
15 additional appropriations for fringe, workers' compensation, and
16 other employee benefits, facility costs, and other requested
17 amounts.

18 The governor, pursuant to chapter 37, may impose
19 restrictions or reductions on charter school appropriations
20 similar to those imposed on other public schools.

21 (b) Charter schools shall be eligible for all federal
22 financial support to the same extent as all other public



1 schools. The department shall provide the charter school
2 administrative office with all federal grant proposals that
3 include charter schools as potential recipients and timely
4 reports on federal grants received for which charter schools may
5 apply. Federal funds received by the department for charter
6 schools shall be transferred to the charter school
7 administrative office for distribution to charter schools in
8 accordance with the federal requirements. If administrative
9 services related to federal grants and subsidies are provided to
10 the charter school by the department, the charter school shall
11 reimburse the department for the actual costs of the
12 administrative services in an amount that does not exceed six
13 and one-half per cent of the charter school's federal grants and
14 subsidies.

15 Any charter school shall be eligible to receive any
16 supplemental federal grant or award for which any other public
17 school may submit a proposal, or any supplemental federal grants
18 limited to charter schools; provided that if department
19 administrative services, including funds management, budgetary,
20 fiscal accounting, or other related services, are provided with
21 respect to these supplemental grants, the charter school shall
22 reimburse the department for the actual costs of the



1 administrative services in an amount that does not exceed six
2 and one-half per cent of the supplemental grant for which the
3 services are used.

4 All additional funds that are generated by the local school
5 boards, not from a supplemental grant, shall be held separate
6 and apart from allotted funds and may be expended at the
7 discretion of the local school boards.

8 (c) To enable charter schools to access state funding
9 prior to the start of each school year, foster their fiscal
10 planning, and enhance their accountability, the charter school
11 administrative office shall:

12 (1) Provide fifty per cent of a charter school's per-pupil
13 allocation based on the charter school's projected
14 student enrollment no later than July 20 of each
15 fiscal year; provided that the charter school shall
16 submit to the charter school administrative office a
17 projected student enrollment no later than May 15 of
18 each year;

19 (2) Provide an additional forty per cent of a charter
20 school's per-pupil allocation no later than November
21 15 of each year; provided that the charter school



1 shall submit to the charter school administrative
2 office:

3 (A) Student enrollment as verified on October 15 of
4 each year, provided that the student enrollment
5 shall be verified on the last business day
6 immediately prior to October 15 should that date
7 fall on a weekend;

8 (B) An accounting of the percentage of student
9 enrollment who transferred from public schools
10 established and maintained by the department,
11 provided that these accountings shall also be
12 submitted by the charter school administrative
13 office to the legislature no later than twenty
14 days prior to the start of each regular session;
15 and

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

19 (d) The department shall provide appropriate transitional
20 resources to a conversion charter school for its first year of
21 operation as a charter school based upon the department's



1 allocation to the school for the year prior to the charter
2 school's conversion.

3 (e) No start-up charter school or conversion charter
4 school may assess tuition.

5 **§302B-14 Weighted student formula.** (a) Notwithstanding
6 section 302B-13 and beginning on September 1, 2006, charter
7 schools shall elect whether to receive allocations according to
8 the department's weighted student formula adopted pursuant to
9 section 302A-1303.6; provided that:

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

15 (2) Any election by charter schools and conversion charter
16 schools to receive department allocations, or not to
17 receive allocations, through the department's weighted
18 student formula shall be made by September 1 of each
19 even-numbered year, and the election shall apply to
20 the fiscal biennium beginning July 1 of the following
21 year; and

1 (3) The election to receive allocations, or not to receive
2 allocations, through the department's weighted student
3 formula shall be communicated to the department
4 through the charter school administrative office.

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

12 **§302B-15 Accountability; probationary status; revocation**

13 **of charter.** (a) Every charter school shall conduct annual
14 self-evaluations that shall be submitted to the charter school
15 administrative office within sixty working days after the
16 completion of the school year. The self-evaluation process
17 shall include but not be limited to:

18 (1) The identification and adoption of benchmarks to
19 measure and evaluate administrative and instructional
20 programs;

21 (2) The identification of any administrative and legal
22 barriers to meeting the adopted benchmarks, and



1 recommendations for improvements and modifications to
2 address the barriers;

3 (3) An evaluation of student achievement within the
4 charter school; and

5 (4) A profile of the charter school's enrollment and the
6 community it serves, including a breakdown of regular
7 education and special education students.

8 (b) The charter school authorization panel shall conduct
9 multi-year evaluations of charter schools that have been
10 chartered for four or more years, and may conduct special
11 evaluations at any time. The charter school authorization panel
12 shall adopt rules pursuant to chapter 91 for its evaluations,
13 including a schedule of such evaluations.

14 (c) The charter school authorization panel may place a
15 charter school on probationary status based upon the findings of
16 its evaluation, provided that:

17 (1) The charter school and the charter school
18 administrative office are involved in substantive
19 discussions with the panel regarding the evaluation;

20 (2) The notice of probation is delivered to the charter
21 school and specifies the deficiencies requiring



1 corrections, the probation period, and monitoring and
2 reporting requirements;

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

6 (4) For deficiencies related to financial plans, a charter
7 school shall be allowed one year to develop a sound
8 financial plan.

9 The charter school shall remain on probationary status
10 until the panel votes to either remove the charter school from
11 probationary status or revoke its charter.

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

14 (d) If a charter school fails to resolve deficiencies by
15 the end of the probation period, the charter school
16 authorization panel, by two-thirds vote, may revoke the charter.
17 The panel may revoke the charter for serious student or employee
18 health or safety deficiencies in accordance with rules adopted
19 by the panel, provided that:

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



1 (2) The chairperson of the charter school authorization
2 panel appoints a task group to visit the charter
3 school and conduct meetings with its local school
4 board and its school community to gather input;

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

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

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

12 (e) If there is an immediate concern for student or
13 employee health or safety at a charter school, the panel, in
14 consultation with the charter school administrative office, may
15 adopt an interim restructuring plan that may include appointment
16 of an interim local school board, an interim local school board
17 chairperson, or a principal to temporarily assume operations of
18 the school.

19 (f) The executive director shall adopt administrative
20 rules to supplement accountability measures incorporated in the
21 written performance contracts required under sections 302B-6 and
22 302B-7.



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

5 **§302B-16 Responsibilities of department of education;**
6 **special education services.** (a) The department of education
7 shall collaborate with the charter school administrative office
8 to develop a system of technical assistance related to
9 compliance with federal and state laws and access to federal and
10 state funds. The department and the charter school
11 administrative office shall collaborate to develop a list of
12 central services that the department of education may offer for
13 purchase by a charter school at an annual cost to be negotiated
14 between an individual charter school and the department. The
15 department shall enter into a contract with a charter school to
16 provide these services, which shall be re-negotiated on an
17 annual basis.

18 (b) The department shall be responsible for the provision
19 of a free, appropriate public education. Any charter school
20 that enrolls special education students or identifies one of its
21 students as eligible for special education shall be responsible
22 for providing the educational and related services required by a



1 student's individualized education program. The programs and
2 services for the student shall be determined collaboratively by
3 the student's individualized education program team and the
4 student's parents or legal guardians.

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

18 **§302B-17 Sports.** The department of education shall
19 provide students at charter schools with the same opportunity to
20 participate in athletics provided to students at other public
21 schools. If a student at a charter school wishes to participate
22 in a sport for which there is no program at the charter school,



1 the department shall allow that student to participate in a
2 comparable program of any public school in the complex in which
3 the charter school is located."

4 SECTION 3. Part IV, subpart D, of chapter 302A, Hawaii
5 Revised Statutes, is repealed.

6 **PART II**

7 SECTION 4. The purpose of this part is to make conforming
8 amendments to various sections of the Hawaii Revised Statutes in
9 accordance with the provisions of the new charter schools law.

10 SECTION 5. Section 26-35.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) For purposes of this section, "member" means any
13 person who is appointed, in accordance with the law, to serve on
14 a temporary or permanent state board, including members of the
15 local school board of any [~~new century~~] charter school
16 [~~established under section 302A-1182~~] or [~~new century~~]
17 conversion charter school established under [~~section 302A-1191,~~]
18 chapter 302B, council, authority, committee, or commission,
19 established by law or elected to the board of education or the
20 board of trustees of the employees' retirement system under
21 section 88-24; provided that "member" shall not include any
22 person elected to serve on a board or commission in accordance



1 with chapter 11 other than a person elected to serve on the
2 board of education."

3 SECTION 6. Section 302A-411, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

8 (1) Attendance shall not be mandatory; and

9 (2) [~~New century charter~~] Charter schools and [~~new~~
10 ~~century~~] conversion charter schools established under
11 chapter 302B shall be excluded from mandatory
12 participation in the program."

13 SECTION 7. Section 302A-1124, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The department, through the board and its
16 superintendent, shall establish a school community council
17 system under which each public school, excluding [~~new century~~]
18 charter schools and [~~new century~~] conversion charter schools[7]
19 established under chapter 302B, shall create and maintain a
20 school community council. Each school community council shall:

21 (1) Review and evaluate the school's academic plan and
22 financial plan, and either recommend revisions of the



- 1 plans to the principal, or recommend the plans for
2 approval by the complex area superintendent;
- 3 (2) Ensure that the school's academic and financial plans
4 are consistent with the educational accountability
5 system under section 302A-1004;
- 6 (3) Participate in principal selection and evaluation, and
7 transmit any such evaluations to the complex area
8 superintendent; and
- 9 (4) Provide collaborative opportunities for input and
10 consultation."

11 SECTION 8. Section 302A-1302, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§302A-1302 School-based budget flexibility. (a)**
14 Beginning with the 1995-1997 fiscal biennium, the department
15 shall implement school-based budget flexibility for schools,
16 complexes, and learning support centers. The flexibility shall
17 be limited to the school-based budgeting program EDN 100 of the
18 department for all schools except [~~new century~~] charter schools
19 [~~defined in section 302A-101~~] and [~~new century~~] conversion
20 charter schools [~~defined in section 302A-1191.~~] established
21 under chapter 302B.



1 (b) Beginning in fiscal year [~~2004-2005,~~] 2006-2007, and
2 every year thereafter, the charter school administrative office
3 shall distribute the allocations due to a [~~new-century~~] charter
4 school or [~~new-century~~] conversion charter school [~~pursuant to~~
5 ~~sections 302A-1185 and 302A-1191,~~] established under chapter
6 302B directly to the [~~new-century~~] charter school or [~~new~~
7 ~~century~~] conversion charter school."

8 SECTION 9. Section 302A-1303.6, Hawaii Revised Statutes,
9 is amended to read as follows:

10 "[~~§~~]**302A-1303.6**[~~]~~ **Weighted student formula.** Based upon
11 recommendations from the committee on weights, the board of
12 education, not less than annually, shall adopt a weighted
13 student formula for the allocation of moneys to public schools
14 [~~which~~] that takes into account the educational needs of each
15 student. The department, upon the receipt of appropriated
16 moneys, shall use the weighted student formula to allocate funds
17 to public schools. Principals shall expend moneys provided to
18 the principals' schools. This section shall only apply to [~~new~~
19 ~~century~~] charter schools and [~~new-century~~] conversion charter
20 schools for fiscal years in which the [~~new-century~~] charter
21 schools and [~~new-century~~] conversion charter schools elect



1 pursuant to section [~~302A-1182.5~~] 302B-14 to receive allocations
2 according to the weighted student formula."

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

5 "(b) Prior to informing the department about the school's
6 repair and maintenance needs, the school's principal shall
7 consider the recommendations made by the school community
8 council or the local school board, if the school is a [~~new~~
9 ~~century~~] conversion charter school[~~-~~] established under chapter
10 302B."

11 SECTION 11. Section 302A-1507, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) There is established a classroom cleaning project in
14 all public schools, excluding [~~new-century~~] charter schools and
15 [~~new-century~~] conversion charter schools[~~-~~] established under
16 chapter 302B. Each school, through its school community
17 council, may develop mechanisms to provide for classroom
18 cleaning, including but not limited to having parent, student,
19 or other community groups clean the classrooms on a regular,
20 continuing basis."



1 SECTION 12. Section 302A-101, Hawaii Revised Statutes, is
2 amended by deleting the definition of "new century charter
3 schools".

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

9 **PART III**

10 SECTION 13. The purpose of this part is to amend various
11 sections of the Hawaii Revised Statutes relating to education
12 and the department of education to further the ability of the
13 State's public charter schools to act independently of the
14 department of education and the public schools that the
15 department establishes and maintains.

16 SECTION 14. Section 26-12, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§26-12 Department of education.** [~~The department of
19 education shall be headed by an executive board to be known as
20 the board of education.~~

21 ~~Under policies established by the board, the superintendent
22 shall administer programs of education and public instruction~~



1 ~~throughout the State, including education at the preschool,~~
2 ~~primary, and secondary school levels, adult education, school~~
3 ~~library services, health education and instruction (not~~
4 ~~including dental health treatment transferred to the department~~
5 ~~of health), and such other programs as may be established by~~
6 ~~law. The state librarian, under policies established by the~~
7 ~~board of education, shall be responsible for the administration~~
8 ~~of programs relating to public library services and transcribing~~
9 ~~services for the blind.]~~

10 (a) The department of education shall be headed by an
11 executive board to be known as the board of education. As
12 provided by law, the board of education shall formulate
13 educational policies for the State's single statewide public
14 school system. The charter school administrative office and the
15 charter school authorization panel established in chapter 302B
16 are placed in the department for administrative purposes as
17 provided in section 26-35.

18 (b) The department shall:

19 (1) Serve as the State's educational agency for purposes
20 of all federal laws, federal educational programs, and
21 federal funding programs, and as the central support
22 system responsible for the overall administration of



1 statewide educational policy, development of standards
2 for compliance with federal laws, and the submission
3 of a single budget for the public schools, including
4 the public charter schools;

5 (2) Serve as the local educational agency for all of the
6 State's public schools other than its public charter
7 schools, for purposes of all federal laws, federal
8 educational programs, and federal funding programs,
9 and serve as the central support system responsible
10 for the overall administration of education policy,
11 compliance with federal and state laws, and the
12 preparation of a budget for the department and all
13 public schools other than public charter schools;

14 (3) Through the superintendent of education, provide for
15 the internal organization, operation, and management,
16 and administer all programs of education and public
17 instruction, including education at the preschool,
18 primary, and secondary school levels, adult education,
19 school library services, and such other programs as
20 may be established by law, in all public schools other
21 than public charter schools;



1 (4) Provide as much support to the charter school
2 administrative office and the State's public charter
3 schools, as it is authorized, directed, or able; and

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

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

14 (d) The management contract between the board of
15 supervisors of the county of Kauai and the Kauai public library
16 association shall be terminated at the earliest time after
17 November 25, 1959, permissible under the terms of the contract
18 and the provisions of this [~~paragraph~~] subsection shall
19 constitute notice of termination, and the functions and
20 authority heretofore exercised by the Kauai county library as
21 heretofore constituted and the Kauai public library association
22 over the public libraries in the county of Kauai shall thereupon



1 be transferred to the public library system established by [~~this~~
2 ~~chapter.~~] Act 1, Second Special Session Laws of Hawaii 1959.

3 (e) The management contracts between the trustees of the
4 library of Hawaii and the Friends of the Library of Hawaii, and
5 between the library of Hawaii and the Hilo library and reading
6 room association, shall be terminated at the earliest time after
7 November 25, 1959, permissible under the terms of the contracts,
8 and the provisions of this [~~paragraph~~] subsection shall
9 constitute notice of termination.

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

17 (g) Notwithstanding any law to the contrary, the board of
18 education may establish, specify the membership number and
19 quorum requirements for, appoint members to, and disestablish a
20 commission in each county to be known as the library advisory
21 commission, which shall in each case sit in an advisory capacity



1 to the board of education on matters relating to public library
2 services in their respective county."

3 SECTION 15. Section 28-8.3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§28-8.3 Employment of attorneys.** (a) No department of
6 the State other than the attorney general may employ or retain
7 any attorney, by contract or otherwise, for the purpose of
8 representing the State or the department in any litigation,
9 rendering legal counsel to the department, or drafting legal
10 documents for the department; provided that the foregoing
11 provision shall not apply to the employment or retention of
12 attorneys:

13 (1) By the public utilities commission, the labor and
14 industrial relations appeals board, and the Hawaii
15 labor relations board;

16 (2) By any court or judicial or legislative office of the
17 State;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted
20 from time to time;

21 (5) By the real estate commission for any action involving
22 the real estate recovery fund;



- 1 (6) By the contractors license board for any action
- 2 involving the contractors recovery fund;
- 3 (7) By the trustees for any action involving the travel
- 4 agency recovery fund;
- 5 (8) By the office of Hawaiian affairs;
- 6 (9) By the department of commerce and consumer affairs for
- 7 the enforcement of violations of chapters 480 and 485;
- 8 (10) As grand jury counsel;
- 9 (11) By the Hawaiian home lands trust individual claims
- 10 review panel;
- 11 (12) By the Hawaii health systems corporation or any of its
- 12 facilities;
- 13 (13) By the auditor;
- 14 (14) By the office of ombudsman;
- 15 (15) By the insurance division;
- 16 (16) By the University of Hawaii;
- 17 (17) By the Kahoolawe island reserve commission;
- 18 (18) By the division of consumer advocacy;
- 19 (19) By the office of elections;
- 20 (20) By the campaign spending commission;
- 21 (21) By the Hawaii tourism authority, as provided in
- 22 section 201B-2.5; [~~o~~]



1 (22) By the charter school administrative office
2 established in section 302B-9; or
3 [~~(22)~~] (23) 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,
14 the Hawaii labor relations board, the office of Hawaiian
15 affairs, the Hawaii health systems corporation, the department
16 of commerce and consumer affairs in prosecution of consumer
17 complaints, the insurance division, the division of consumer
18 advocacy, the University of Hawaii, the Hawaii tourism authority
19 as provided in section 201B-2.5, the Hawaiian home lands trust
20 individual claims review panel, the charter school
21 administrative office, or as grand jury counsel, shall be a
22 deputy attorney general.



1 (d) All attorneys retained by contract, whether by the
2 attorney general or a department, shall be retained in
3 accordance with chapter 103D[-] unless the retention is
4 otherwise excepted from chapter 103D."

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

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

16 SECTION 17. Section 302A-1101, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) There shall be a principal executive department to be
19 known as the department of education, which shall be headed by
20 an elected policy-making board to be known as the board of
21 education. The board shall have power in accordance with law to
22 formulate statewide educational policy, adopt student



1 performance standards and assessment models, monitor school
 2 success, and to appoint the superintendent of education as the
 3 chief executive officer of [~~the public school system.~~] that
 4 subsystem of the State's single statewide system of public
 5 schools that does not include the State's public charter
 6 schools. The charter school administrative office and the
 7 charter school authorization panel established in chapter 302B
 8 are placed in the department for administrative purposes as
 9 provided in section 26-35."

10 SECTION 18. Section 302A-1111, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "[~~§~~302A-1111] **Duties of superintendent.** (a) Under
 13 policies established by the board, the superintendent shall be
 14 designated as the chief executive officer [~~of the public school~~
 15 ~~system having]~~ of that subsystem of the State's single statewide
 16 system of public schools that does not include the State's
 17 public charter schools. The superintendent shall have
 18 jurisdiction over the internal organization, operation, and
 19 management of [~~the public school system, as provided by law;~~]
 20 all public schools other than public charter schools; and shall
 21 administer programs of education and public instruction
 22 [~~throughout the State,~~] in those public schools, including



1 education at the preschool, primary, and secondary school
2 levels, and such other programs as may be established by law.

3 (b) Except as otherwise provided, the superintendent shall
4 sign all drafts for the payment of moneys, all commissions and
5 appointments, all deeds, official acts, or other documents of
6 the department~~[-]~~, except documents prepared or received by the
7 charter school administrative office established under chapter
8 302B. The superintendent may use a printed facsimile signature
9 in approving appointments, contracts, and other documents. The
10 superintendent, at such time as may be prescribed by the board,
11 shall present to the board full annual reports of the principal
12 transactions within the department during the last completed
13 year, which reports together with such recommendations as the
14 board may think proper, shall be presented to the governor and
15 the legislature."

16 SECTION 19. Section 302A-1128, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§302A-1128 Department powers and duties.** (a) The
19 department shall have entire charge and control and be
20 responsible for the conduct of all affairs pertaining to public
21 instruction~~[-]~~ in the public schools the department establishes
22 and maintains, including operating and maintaining the capital



1 improvement and repair and maintenance programs for department
2 and school facilities. The department may establish and
3 maintain schools for secular instruction at such places and for
4 such terms as in its discretion it may deem advisable and the
5 funds at its disposal may permit. The schools may include high
6 schools, kindergarten schools, schools or classes for pregrade
7 education, boarding schools, Hawaiian language medium education
8 schools, and evening and day schools. The department may also
9 maintain classes for technical and other instruction in any
10 school where there may not be pupils sufficient in number to
11 justify the establishment of separate schools for these
12 purposes.

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

- 17 (1) The course of study and instruction shall be regulated
18 in accordance with the statewide performance standards
19 established under section 302A-201;
- 20 (2) All pupils shall be progressively competent in the use
21 of computer technology; and



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

5 The department shall develop statewide educational policies
6 and guidelines based on this subsection without regard to
7 chapter 91.

8 For the purposes of this subsection, the terms
9 "progressively competent in the use of computer technology" and
10 "competency in a language in addition to English" shall be
11 defined by policies adopted by the board. The board shall
12 formulate statewide educational policies allowing the
13 superintendent to exempt certain students from the requirements
14 of paragraphs (2) and (3) without regard to chapter 91.

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

17 SECTION 20. Section 302A-1402, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**[+]§302A-1402[+]** **Custodian of federal funds.** The
20 director of finance is designated as custodian of all funds
21 received as the state apportionment under any federal
22 appropriations for public educational purposes and the director



1 shall disburse the funds, pursuant to the requirements,
 2 restrictions, and regulations of the federal acts under which
 3 the funds may be provided, on vouchers approved by the board, or
 4 by any subordinate thereunto duly authorized by the board[-], or
 5 as appropriate, by the charter school administrative office
 6 established under chapter 302B."

7 SECTION 21. Section 302A-1403, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "[+]§302A-1403[+] **Authority to secure federal funds.** The
 10 department, the charter school administrative office, director
 11 of finance, and governor may take such steps and perform such
 12 acts as may be necessary or proper in order to secure any such
 13 federal funds for the purposes specified in sections 302A-1401
 14 and 302A-1402."

15 SECTION 22. Section 302A-1404, Hawaii Revised Statutes, is
 16 amended by amending subsection (a) to read as follows:

17 "(a) The department and the charter school administrative
 18 office, as appropriate, may retain and expend federal indirect
 19 overhead reimbursements for discretionary grants in excess of
 20 the negotiated rate for such reimbursements as determined by the
 21 director of finance and the superintendent[-]or the director of



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1 finance and the executive director of the charter school
2 administration office."

3 SECTION 23. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 24. This Act shall take effect July 1, 2006;
6 provided that the amendments made to section 28-8.3, Hawaii
7 Revised Statutes, by section 15 of this Act shall not be
8 repealed when section 28-8.3, Hawaii Revised Statutes, is
9 reenacted on June 30, 2007 pursuant to section 14(2) of Act 58,
10 Session Laws of Hawaii 2004, as amended by section 50 of Act 22,
11 Session Laws of Hawaii 2005.

12

INTRODUCED BY: Norman Solomon



SB 2719

Report Title:

Education; Charter Schools; Recodification

Description:

Omnibus public charter schools recodification. Creates a new chapter on charter school governance.

