

1 membership, and assigning this panel the role of
2 authorizer;

3 (5) Setting an annual limit to new charter schools based
4 in part on the existing charter schools accredited by
5 the Western Association of Schools and Colleges;

6 (6) Empowering the local school boards to negotiate
7 supplemental collective bargaining agreements with the
8 exclusive representatives of their employees; and

9 (7) Making various other amendments to the Hawaii Revised
10 Statutes consistent with the new charter schools law.

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

13 "CHAPTER 302B

14 PUBLIC CHARTER SCHOOLS

15 §302B-1 Purpose. The purpose of this chapter is to
16 authorize the establishment of a charter school system and set
17 forth standards for the governance, administration, support,
18 financing, autonomy, and accountability for charter schools,
19 including start-up charter schools and conversion charter
20 schools.

21 The charter school system is an important complement to the
22 department of education's school system, one that empowers local



1 school boards and their charter schools by allowing more
2 autonomy and flexibility and placing greater responsibility at
3 the school level. The charter school system is made up of the
4 charter school administrative office, the charter school
5 authorization panel, and individual charter schools with
6 differing visions, missions, and approaches meeting the various
7 needs and desires of Hawaii's communities.

8 The purposes of the charter school system include but are
9 not limited to:

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



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

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

- 5 (1) Review applications for new charter schools;
- 6 (2) Issue or deny new charters;
- 7 (3) Ensure that detailed implementation plans and
8 performance contracts are designed to maximize school
9 financial and academic success;
- 10 (4) Review periodically existing charter school
11 operations;
- 12 (5) Review and monitor the organizational viability of
13 charter schools;
- 14 (6) Monitor and hold charter schools accountable. Be
15 responsible not for success or failure of individual
16 schools, but for holding schools accountable for their
17 performance;
- 18 (7) Renew charters; and
- 19 (8) Revoke a charter.

20 "Charter school" refers to those public schools holding
21 charters to operate as charter schools, including start-up and
22 conversion charter schools, under this chapter, with the



1 flexibility to implement alternative frameworks with regard to
2 curriculum, facilities management, instructional approach,
3 length of the school day, week, or year, and personnel
4 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 department of education school that has converted
10 to a charter school and is managed and operated in
11 accordance with section 302B-7; or
- 12 (2) Any department of education school that has converted
13 to a charter school and is managed and operated by a
14 nonprofit organization in accordance with section
15 302B-7.

16 "Department" means the department of education.

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



1 "Executive director" means the executive director of the
2 charter school administrative office.

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

11 "Nonprofit organization" means a private, nonprofit, tax-
12 exempt entity that:

13 (1) Is recognized as a tax-exempt organization under
14 section 501(c)(3) of the Internal Revenue Code of
15 1986, as amended; and

16 (2) Is domiciled in this State.

17 "Office" means the charter school administrative office.

18 "Start-up charter school" means a new charter school that
19 was created under section 302B-6 by any community, group of
20 teachers and administrators, or entity recognized as a nonprofit
21 organization.



1 **§302B-3 Existing charter schools.** Any charter school
2 holding a charter to operate under part IV, subpart D, of
3 chapter 302A as that subpart existed before the effective date
4 of this Act shall be considered a charter school for the
5 purposes of this chapter.

6 **§302B-4 Charter school authorization panel; establishment;
7 powers and duties.** (a) There is established a charter school
8 authorization panel within the charter school administrative
9 office. The authorization panel shall be composed of nine
10 members as follows:

- 11 (1) Two members shall be board of education members or
12 their designees appointed by the chairperson of the
13 board of education;
- 14 (2) Two members shall be members of the charter school
15 community appointed by the chairperson of the board of
16 education from a list submitted by existing charter
17 schools;
- 18 (3) Two members shall be current or former members of a
19 charter school local school board appointed by the
20 executive director;
- 21 (4) One member shall be appointed by the dean of the
22 University of Hawaii's college of education;



1 (5) One member shall be a representative of the business
2 community with comprehensive experience in budgeting
3 and finance appointed by chairperson of the board of
4 education;

5 (6) One member shall be the executive director or the
6 executive director's designee; and

7 (7) Among the appointees, at least two shall have
8 educational experience.

9 (b) The charter school authorization panel shall serve as
10 the charter school authorizer.

11 **§302B-5 Limit on charter schools.** (a) Beginning in July
12 2007, up to a total of four new start-up charter schools, in
13 addition to those in existence on the effective date of this
14 Act, may be established during each fiscal year.

15 The charter school authorization panel may authorize new
16 charter schools under the following conditions:

17 (1) Beginning in July 2007, for each existing charter
18 school that has received Western Association of
19 Schools and Colleges accreditation for three years or
20 more, or has been accredited through equivalent
21 alternative national criteria or standards, a new
22 charter school may be authorized; and



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

6 (b) There may be up to twenty-five conversion charter
7 schools; provided that this limit shall not apply to department
8 of education schools in restructuring that are seeking to
9 convert to charter schools in accordance with the federal No
10 Child Left Behind Act of 2001 (Public Law 107-110).

11 **§302B-6 Start-up charter schools; establishment.** (a) New
12 start-up charter schools may be established by the creation of a
13 new school pursuant to this section.

14 (b) Any community, group of teachers, group of teachers
15 and administrators, or entity recognized as a nonprofit
16 organization under section 501(c)(3) of the Internal Revenue
17 Code of 1986, as amended, may submit a letter of intent to the
18 charter school authorization panel to form a charter school,
19 establish a local school board as its governing body, and
20 develop a detailed implementation plan pursuant to subsection
21 (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 equivalent
7 to the average system of accountability in public
8 schools throughout the State; and

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

11 (6) A governance structure for the school that
12 incorporates a conflict of interest policy and a plan
13 for periodic training to carry out the duties of local
14 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 charter school
5 shall receive authorization from the
6 administrator responsible for the facilities; and

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

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

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 equivalent
7 to the average system of accountability in public
8 schools throughout the State; and

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

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

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

20 (8) A plan for any necessary design, construction,
21 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; provided that the panel shall issue a
16 report of its preliminary findings, within forty-five working
17 days, to the board of education and the local school board to
18 permit time for the applicant to clarify or withdraw the
19 application, if necessary.

20 If the panel determines that the implementation plan:

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

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

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

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

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

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

18 (B) May issue a provisional approval for a charter if
19 the panel determines that the applicant may
20 reasonably be expected to expeditiously resolve
21 any remaining findings impeding the issuance of a
22 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 conversion
14 charter school. If a charter is issued, the amended
15 implementation plan shall be converted to a written
16 performance contract between the school and the panel;
17 or

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

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

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

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

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

18 (1) The local school board as the governing body of the
19 conversion charter school shall be composed of the
20 board of directors of the nonprofit organization and
21 not the participants specified in section 302B-8. The
22 nonprofit organization may also appoint advisory



1 panels of community representatives for each school
2 managed by the organization, with whom the
3 organization may consult; provided that these panels
4 shall not have governing authority over the school and
5 shall serve only in an advisory capacity to the
6 nonprofit organization;

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

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



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

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

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



1 minimum annual contribution of \$1 per pupil toward the
2 operation of a conversion charter school for every \$4
3 per pupil allocated by the charter school
4 administrative office for the operation of the
5 conversion charter school;

6 (6) If, at any time, the board of directors of the
7 nonprofit organization governing the conversion
8 charter school votes to discontinue its relationship
9 with the charter school, the charter school may submit
10 an application to the charter school authorization
11 panel to continue as a conversion school without the
12 participation of the nonprofit organization; and

13 (7) If, at any time, the conversion charter school
14 dissolves or the charter is revoked, the State shall
15 have first right, at no cost to the State, to all the
16 assets and facilities of the conversion charter
17 school.

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

21 (1) Have bylaws or policies that describe the manner in
22 which business is conducted and policies that relate

1 to the management of potential conflict of interest
2 situations;

3 (2) Have experience in the management and operation of
4 public or private schools, or, to the extent
5 necessary, agree to obtain appropriate services from
6 another entity or entities possessing such experience;

7 (3) Comply with all applicable federal, state, and county
8 laws, including licensure or accreditation, as
9 applicable; and

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

14 (j) Any public school or schools may submit a letter of
15 intent to the charter school authorization panel to form a
16 conversion charter school, establish a local school board as its
17 governing body, and develop a detailed implementation plan
18 pursuant to subsection (c). The detailed implementation plan
19 shall be approved by a majority of the votes cast by existing
20 administrative, support, and teaching personnel, and parents of
21 students at the proposed conversion charter school; provided
22 that the school personnel may request their collective



1 bargaining unit representative to certify and conduct the
2 elections for their respective bargaining units.

3 (k) Unless otherwise provided in this section, the
4 provisions in this chapter, as they relate to charter schools,
5 shall apply to conversion charter schools. In the event of a
6 conflict between the provisions in this section and other
7 provisions in this chapter, this section shall control.

8 **§302B-8 Local school boards; powers and duties.** (a) All
9 local school boards, with the exception of those of conversion
10 charter schools that are established, managed, and operated by a
11 nonprofit organization pursuant to section 302B-7(h), shall be
12 composed of, at a minimum, one representative from each of the
13 following participant groups:

- 14 (1) Principals;
- 15 (2) Instructional staff members selected by the school
16 instructional staff;
- 17 (3) Support staff selected by the support staff of the
18 school;
- 19 (4) Parents of students attending the school selected by
20 the parents of the school;
- 21 (5) Student body representatives selected by the students
22 of the school; and



1 (6) The community at large.

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

5 (c) The local school board shall be the autonomous
6 governing body of a charter school that receives the charter and
7 shall be responsible for the financial and academic viability of
8 the charter school, implementation of the charter, the
9 organization and management of the school, the curriculum, and
10 compliance with applicable federal and state laws. The local
11 school board shall have the power to negotiate supplemental
12 collective bargaining agreements with exclusive representatives
13 of their employees.

14 (d) The State shall afford the local school board of any
15 charter school the same protections as the State affords to the
16 board of education.

17 **§302B-9 Charter school administrative office.** (a) There
18 is established a charter school administrative office, which
19 shall be attached to the department for administrative purposes
20 only. The office shall be administered by an executive
21 director, who shall be appointed without regard to chapters 76
22 and 89 by the board of education based upon the recommendations



1 of an organization of charter schools operating within the State
2 or from a list of nominees submitted by the charter schools.
3 The board of education may hire the executive director on a
4 multi-year contract. The executive director may hire necessary
5 staff without regard to chapters 76 and 89 to assist in the
6 administration of the office.

7 (b) The executive director, under the direction of the
8 charter schools and in consultation with the board of education,
9 shall be responsible for the internal organization, operation,
10 and management of the charter school system, including:

11 (1) Preparation and execution of the budget for the
12 charter schools, including submission of the budget
13 request to the board of education, the governor, and
14 the legislature;

15 (2) Allocation of annual appropriations to the charter
16 schools and distribution of federal funds to charter
17 schools;

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

20 (4) Preparation of contracts between the charter schools
21 and the department of education for centralized
22 services to be provided by the department;



- 1 (5) Preparation of contracts between the charter schools
2 and other state agencies for financial or personnel
3 services to be provided by the state agencies to the
4 charter schools;
- 5 (6) Representation of charter schools in communications
6 with the board of education, the governor, and the
7 legislature;
- 8 (7) Assist and support the development, growth, and
9 progress of charter schools;
- 10 (8) Facilitate training and oversee administrative support
11 for the charter school authorization panel;
- 12 (9) Establishing a dispute resolution and mediation panel;
13 and
- 14 (10) Upon request by one or more charter schools, assisting
15 in the negotiation of a collective bargaining
16 agreement with the exclusive representative of its
17 employees.
- 18 (c) The executive director shall be evaluated annually
19 through a process jointly agreed upon by the charter schools and
20 the board of education.
- 21 (d) The salary of the executive director and staff shall
22 be set by the board of education based upon the recommendations



1 of charter schools within the State; provided that the salaries
2 and operational expenses of the charter school administrative
3 office shall be paid from the annual charter school
4 appropriation and shall not exceed two per cent of the total
5 allocation in any fiscal year.

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

- 9 (1) Vacation and sick leave accrued by employees
10 transferring to a charter school from another state
11 agency or department;
- 12 (2) The cost of substitute teachers needed when a teacher
13 is out on vacation or sick leave;
- 14 (3) Adjustments to enrollments; and
- 15 (4) Costs associated with arbitration in the grievance
16 process.

17 (f) The charter school administrative office may withhold
18 funds for unauthorized charter school enrollments that are
19 inconsistent with approved detailed implementation plans.

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

1 **§302B-10 Exemptions from state laws.** (a) Charter schools
2 shall be exempt from chapter 92 and all applicable state laws in
3 conflict with this chapter, except those regarding:

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

5 (A) The exclusive representatives defined in chapter
6 89 and the local school board of the charter
7 school may enter into supplemental agreements
8 that contain cost and noncost items to facilitate
9 decentralized decisionmaking;

10 (B) The agreements shall be funded from the current
11 allocation or other sources of revenue received
12 by the charter school; provided that collective
13 bargaining increases for employees shall be
14 allocated by the department of budget and finance
15 to the charter school administrative office for
16 distribution to charter schools; and

17 (C) These supplemental agreements may differ from the
18 master contracts negotiated with the department
19 of education;

20 (2) Discriminatory practices under section 378-2; and

21 (3) Health and safety requirements.



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

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

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

20 **§302B-11 Civil service status; employee rights.** (a)
21 Civil service employees of department of education schools shall
22 retain their civil service status upon the conversion of their



1 school to a conversion charter school. Positions in a
2 conversion charter school that would be civil service in a
3 department of education public school, shall be civil service
4 positions and subject to chapter 76. An employee with civil
5 service status at a conversion charter school who transfers to
6 another civil service position shall be entitled to all of the
7 rights, privileges, and benefits of continuous, uninterrupted
8 civil service. Civil service employees of a new century
9 conversion charter school shall retain their civil service
10 status in the department of education human resources civil
11 service system and shall be entitled to all rights and benefits
12 as other civil service employees employed by the department of
13 education.

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

20 (c) The department, to the extent possible, shall provide
21 its position listings to the charter school administrative



1 office and any interested local school board of any charter
2 school.

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

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

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

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



1 **§302B-12 Administration of workers' compensation.** The
2 department of human resources development shall administer
3 workers' compensation claims for employees of charter schools,
4 who shall be covered by the same workers' compensation system as
5 other public employees. The department of human resources
6 development shall process, investigate, and make payments on
7 claims; provided that:

- 8 (1) Charter schools shall compile the preliminary claim
9 form and forward it to the department of human
10 resources development; and
11 (2) The department of human resources development shall
12 receive no more than 0.07 per cent of the charter
13 schools' total operating budget (EDN 600)
14 appropriation to process these workers' compensation
15 claims.

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

- 20 (1) The actual and projected enrollment figures in the
21 current school year for each charter school;



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

12 (3) Those fringe benefit costs requested shall be included
13 in the department of budget and finance's annual
14 budget request. No fringe benefit costs shall be
15 charged directly to or deducted from the charter
16 school per-pupil allocations, unless they are already
17 included in funds distributed to charter schools.

18 The legislature shall make an appropriation based upon the
19 budget request; provided that the legislature may make
20 additional appropriations for fringe, workers' compensation, and
21 other employee benefits, facility costs, and other requested
22 amounts.



1 The governor, pursuant to chapter 37, may impose
2 restrictions or reductions on charter school appropriations
3 similar to those imposed on other public schools.

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

20 Any charter school shall be eligible to receive any
21 supplemental federal grant or award for which any other public
22 school may submit a proposal, or any supplemental federal grants



1 limited to charter schools; provided that if department
2 administrative services, including funds management, budgetary,
3 fiscal accounting, or other related services, are provided with
4 respect to these supplemental grants, the charter school shall
5 reimburse the department for the actual costs of the
6 administrative services in an amount that does not exceed six
7 and one-half per cent of the supplemental grant for which the
8 services are used.

9 All additional funds that are generated by the local school
10 boards, not from a supplemental grant, shall be held separate
11 and apart from allotted funds and may be expended at the
12 discretion of the local school boards.

13 (c) To enable charter schools to access state funding
14 prior to the start of each school year, foster their fiscal
15 planning, and enhance their accountability, the charter school
16 administrative office shall:

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



1 projected student enrollment no later than May 15 of
2 each year;

3 (2) Provide an additional forty per cent of a charter
4 school's per-pupil allocation no later than November
5 15 of each year; provided that the charter school
6 shall submit to the charter school administrative
7 office:

8 (A) Student enrollment as verified on October 15 of
9 each year, provided that the student enrollment
10 shall be verified on the last business day
11 immediately prior to October 15 should that date
12 fall on a weekend;

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



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

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

9 (e) No start-up charter school or conversion charter
10 school may assess tuition.

11 **§302B-14 Weighted student formula.** (a) Notwithstanding
12 section 302B-13 and beginning on September 1, 2006, charter
13 schools shall elect whether to receive allocations according to
14 the department's weighted student formula adopted pursuant to
15 section 302A-1303.6; provided that:

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

21 (2) Any election by charter schools and conversion charter
22 schools to receive department allocations, or not to



1 receive allocations, through the department's weighted
2 student formula shall be made by September 1 of each
3 even-numbered year, and the election shall apply to
4 the fiscal biennium beginning July 1 of the following
5 year; and

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

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

17 **§302B-15 Accountability; probationary status; revocation**
18 **of charter.** (a) Every charter school shall conduct annual
19 self-evaluations that shall be submitted to the charter school
20 administrative office within sixty working days after the
21 completion of the school year. The self-evaluation process
22 shall include but not be limited to:



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

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

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

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

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

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



- 1 (1) The charter school and the charter school
2 administrative office are involved in substantive
3 discussions with the panel regarding the evaluation;
- 4 (2) The notice of probation is delivered to the charter
5 school and specifies the deficiencies requiring
6 corrections, the probation period, and monitoring and
7 reporting requirements;
- 8 (3) For deficiencies related to student performance, a
9 charter school shall be allowed two years to improve
10 student performance; and
- 11 (4) For deficiencies related to financial plans, a charter
12 school shall be allowed one year to develop a sound
13 financial plan.

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

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

19 (d) If a charter school fails to resolve deficiencies by
20 the end of the probation period, the charter school
21 authorization panel, by two-thirds vote, may revoke the charter.
22 The panel may revoke the charter for serious student or employee



1 health or safety deficiencies in accordance with rules adopted
2 by the panel, provided that:

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

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

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

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

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

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



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

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

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

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



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

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



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

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

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

- 12 (1) Attendance shall not be mandatory; and
- 13 (2) [~~New century charter~~] Charter schools [~~and new century~~
 14 ~~conversion charter schools~~] established under chapter
 15 302B shall be excluded from mandatory participation in
 16 the program."

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

19 "(a) The department, through the board and its
 20 superintendent, shall establish a school community council
 21 system under which each public school, excluding [~~new century~~]
 22 charter schools [~~and new century conversion charter schools,~~]



1 established under chapter 302B, shall create and maintain a
2 school community council. Each school community council shall:

3 (1) Review and evaluate the school's academic plan and
4 financial plan, and either recommend revisions of the
5 plans to the principal, or recommend the plans for
6 approval by the complex area superintendent;

7 (2) Ensure that the school's academic and financial plans
8 are consistent with the educational accountability
9 system under section 302A-1004;

10 (3) Participate in principal selection and evaluation, and
11 transmit any such evaluations to the complex area
12 superintendent; and

13 (4) Provide collaborative opportunities for input and
14 consultation."

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

17 "**§302A-1302 School-based budget flexibility.** (a)
18 [~~Beginning with the 1995-1997 fiscal biennium, the~~] The
19 department shall implement school-based budget flexibility for
20 schools, complexes, and learning support centers. The
21 flexibility shall be limited to the school-based budgeting
22 program [~~EDN-100~~] (EDN100) of the department for all schools



1 except [~~new century~~] charter schools [~~defined in section 302A-~~
2 ~~101 and new century conversion charter schools defined in~~
3 ~~section 302A-1191.~~] established under chapter 302B.

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

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

13 "[~~+~~]**§302A-1303.6**[~~+~~] **Weighted student formula.** Based upon
14 recommendations from the committee on weights, the board of
15 education, not less than annually, shall adopt a weighted
16 student formula for the allocation of moneys to public schools
17 [~~which~~] that takes into account the educational needs of each
18 student. The department, upon the receipt of appropriated
19 moneys, shall use the weighted student formula to allocate funds
20 to public schools. Principals shall expend moneys provided to
21 [~~the principals' schools.~~] each principal's respective school.

22 This section shall only apply to [~~new century charter schools~~



1 ~~and new century conversion~~] charter schools for fiscal years in
2 which the [~~new century charter schools and new century~~
3 ~~conversion~~] charter schools elect pursuant to section [~~302A-~~
4 ~~1182.5~~] 302B-14 to receive allocations according to the weighted
5 student formula."

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

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

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

16 "(a) There is established a classroom cleaning project in
17 all public schools, excluding [~~new century~~] charter schools [~~and~~
18 ~~new century conversion charter schools-~~] established under
19 chapter 302B. Each school, through its school community
20 council, may develop mechanisms to provide for classroom
21 cleaning, including but not limited to having parent, student,



1 or other community groups clean the classrooms on a regular,
2 continuing basis."

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

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

11 **PART III**

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

18 SECTION 14. Section 302A-1402, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~§~~302A-1402] **Custodian of federal funds.** The
21 director of finance is designated as custodian of all funds
22 received as the state apportionment under any federal



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

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

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

16 **PART IV**

17 SECTION 16. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 17. This Act shall take effect on July 1, 2050.



Report Title:

Education; Charter Schools; Recodification

Description:

Omnibus public charter schools recodification. Creates a new chapter on charter school governance. (SD2)

