

JAN 25 2006

S.B. NO. 3054

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

PART I

1

2 SECTION 1. The legislature finds that, given the State's
3 limited resources, the lack of facilities funding is one the
4 biggest challenges facing Hawaii's charter schools. To help
5 minimize the financial burden on the State for underwriting
6 facilities, the legislature believes it can help to leverage
7 scarce public resources through a partnership similar to the
8 Hawaii 3R's program. Like the Hawaii 3R's program, the
9 partnership would be:

- 10 (1) A public-private partnership;
- 11 (2) Initially be incubated under the fiscal agency of an
12 existing 501(c)(3) or similar nonprofit organization;
13 and
- 14 (3) Attract private investment through the use of tax
15 credits, including federal tax credits.

16 While the Hawaii 3R's program focuses on repair and
17 maintenance, the charter school facilities fund partnership
18 would focus on providing below market loans to charter schools



1 for buildings and capital improvements of their facilities. The
2 purpose of the partnership or financing "hui" would be to create
3 and administer a revolving loan fund.

4 The Los Angeles charter school new market loan fund could
5 serve as the model for Hawaii's initiative. The fund makes
6 loans possible with funding from the private sector. As an
7 added incentive, businesses, communities, and financial lenders
8 are able to take advantage of federal community development and
9 tax credits under the federal Community Reinvestment Act and the
10 federal new markets tax credit program. The fund has also
11 partnered with Excellence Education Through Charter Schools, a
12 nonprofit research and development corporation, to underwrite
13 and service each loan.

14 The fund initially focused on fostering investment in low-
15 income areas, defined in the federal census tract as areas with
16 eighty per cent or less of the State's median income. If Hawaii
17 were to use the same criteria, eleven of Hawaii's twenty-seven
18 existing charter schools could qualify for loans under this
19 model. In addition to the low-income requirement, Hawaii could
20 also permit schools with a concentration of native Hawaiians to
21 be considered applicants in a pilot program of this nature.



1 Potential partners from the public and nonprofit sectors
2 could include the office of the governor, the department of
3 business, economic development, and tourism, the department of
4 land and natural resources, the department of Hawaiian
5 homelands, the office of Hawaiian affairs, the task force on
6 charter school governance, and the Kamehameha Schools. Private
7 partners could include the Bank of Hawaii and American Savings
8 Bank, who have already expressed a preliminary, tentative
9 interest in technical financial assistance to charter schools
10 through the Kamehameha Schools' Hoolako Like program. Potential
11 organizations that could serve as incubators include the Hawaii
12 Charter School Network or the Hawaii Community Loan Fund.

13 For the purpose of assuring the long-term viability of the
14 charter school facilities fund partnership, the State may also,
15 in the long run, provide ongoing support by:

- 16 (1) Requiring a designated individual within a state
17 agency to facilitate the identification and assignment
18 of vacant state lands and property for the purpose of
19 establishing a facility for a new century charter
20 school;



1 SECTION 4. The legislature finds that Hawaii's public
2 charter schools often have difficulty finding suitable
3 facilities to rent or lease for their instructional and
4 administration facilities. New charter schools have even more
5 difficulty in renting or leasing facilities, as landlords are
6 reluctant to enter into a rental or lease agreement with a new
7 charter school or its associated nonprofit organization.

8 The purpose of this part is to provide an incentive to a
9 landlord to rent or lease property to a new century charter
10 school or its associated nonprofit organization by providing a
11 tax credit to the landlord.

12 SECTION 5. Chapter 235, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§235- Tax credit for landlords leasing or renting to a
16 charter school or its associated nonprofit organization. (a)

17 There shall be allowed to each taxpayer that is a qualifying
18 landlord and subject to the taxes imposed by this chapter, a tax
19 credit in the amount of up to fifteen per cent of the income
20 generated by a property or portion of a property that the
21 landlord rents or leases to a new century charter school or its
22 associated nonprofit organization. The landlord shall rent or



1 lease a property at fifteen per cent below the market rate for
2 comparable rentals or leases. The amount of the tax credit
3 shall be equal to the difference between the below market rate
4 the landlord is charging the school or nonprofit organization
5 and the market rate for a comparable rental.

6 (b) The tax credit shall be deductible from the taxpayer's
7 net income tax liability imposed by this chapter for the taxable
8 year in which the tax credit is properly claimed.

9 (c) The director of taxation shall prepare forms as may be
10 necessary to claim a credit under this section. The director
11 may also require the taxpayer to furnish information to
12 ascertain the validity of the claim for credit made under this
13 section and may adopt rules as necessary to effectuate the
14 purposes of this section pursuant to chapter 91.

15 (d) This section does not apply to new century conversion
16 charter schools."

17 PART III

18 SECTION 6. Public charter schools have great difficulty
19 with leasing affordable land on which to locate schools due to
20 prohibitive costs and zoning restrictions. The legislature
21 believes that charter schools, with their status as public
22 schools and state agencies, should have access to state-held



1 lands and buildings and enjoy comparable rates and conditions as
2 those afforded other state agencies.

3 The purpose of this part is to encourage the State to enter
4 into long-term leases of lands and buildings with charter
5 schools for the location of school facilities.

6 SECTION 7. Chapter 171, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§171- Lease to public charter schools. Notwithstanding
10 any limitations to the contrary, the board of land and natural
11 resources may lease to new century charter schools, at nominal
12 consideration, by direct negotiation and without recourse to
13 public auction, public lands and buildings under the control of
14 the department of land and natural resources. Except as
15 provided in this section, the terms and conditions of sections
16 171-33 and 171-36 shall apply. The lands and buildings leased
17 under this section shall be used by the charter schools for
18 educational purposes only. This section shall not apply to new
19 century conversion charter schools."

20 PART IV

21 SECTION 8. The legislature finds that lack of facilities
22 funding is a significant financial and operational challenge for



1 new century charter schools, as they often find rent, lease, or
2 mortgage costs prohibitive. The capacity to provide a long-term
3 physical location, infrastructure maintenance, and building
4 improvements will contribute to the successful development and
5 stability of individual charter schools.

6 The purpose of this part is to assist with stabilizing new
7 century charter schools by providing a reimbursement for their
8 rent, lease, or mortgage payments.

9 SECTION 9. Chapter 302A, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 **"§302A- Facilities rent, lease or mortgage payment**
13 **reimbursement.** (a) Notwithstanding any law to the contrary,
14 the department of education shall reimburse individual new
15 century charter schools to offset costs incurred by the charter
16 school for rent, lease, or mortgage payments. The reimbursement
17 shall not apply to repair, maintenance, or improvement costs of
18 charter school facilities.

19 (b) The sum reimbursed shall be provided not less than two
20 months prior to the end of the fiscal year and shall reflect
21 only the actual expenses incurred. To qualify for the
22 reimbursement, each charter school shall report its actual rent,



1 lease, or mortgage expenses to the charter school administrative
 2 office and provide substantiation of these expenses in the form
 3 of paid receipts, cancelled checks, and a copy of the current
 4 rent, lease, or mortgage agreement. The reimbursement shall be
 5 recorded separately from the general per pupil allocation
 6 provided for in section 302A-1185, so that it may be easily
 7 identified and tracked for matching grants.

8 (c) The amount of reimbursement shall not be subject to
 9 any charges or withholding by any state department or agency,
 10 including the charter school administrative office. In the
 11 event that a state department or agency, including the charter
 12 school administrative office, provides substantive support
 13 services to a charter school for facilities acquisition,
 14 maintenance, or improvement, there shall be a memorandum of
 15 agreement between the individual charter school and the relevant
 16 state department or agency to determine the fee to be paid by
 17 the individual charter school to the state department or agency.

18 (d) The reimbursement amount is subject to the same
 19 encumbrance for reserve restrictions as any other allocation
 20 that the charter school receives from the State."

21 SECTION 10. There is appropriated out of the general
 22 revenues of the State of Hawaii the sum of \$, or so

1 much thereof as may be necessary for fiscal year 2006-2007, for
2 rent, lease, or mortgage expenses for charter school facilities.

3 SECTION 11. The sums appropriated in sections 2 and 10
4 shall be expended by the department of education for the
5 purposes of this Act.

6 SECTION 12. New statutory material is underscored.

7 SECTION 13. This Act shall take effect upon its approval,
8 provided that:

9 (1) Section 5 shall apply to the taxable years beginning
10 after December 31, 2005; and

11 (2) Sections 2 and 10 shall take effect on July 1, 2006.
12

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Report Title:

Education; Charter Schools

SB. NO. 3054

Description:

Provides seed money to establish the charter schools facilities fund partnership. Provides a tax credit to landlords who rent or lease to charter schools. Encourages the State to enter into leases charter schools at rates comparable to other State agencies. Reimburses new century charter schools for rent, lease, or mortgage payments for charter school facilities.

