

JAN 24 2007

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 SECTION 1. Act 62, Session Laws of Hawaii 1999, enacted
2 the new century charter schools law to provide for the creation
3 of charter schools, provide procedures for their establishment
4 and funding, and clarify the parameters of state and county
5 regulation of charter schools. The concept of new century
6 charter schools is to nurture the ideal of more autonomous and
7 flexible decision-making at the school level. To accomplish
8 this, Act 62 was intended to free charter schools from statutory
9 and regulatory requirements that tend to inhibit or restrict a
10 school's ability to make decisions relating to the provision of
11 educational services to the students attending the school.

12 One area of controversy regarding regulatory exemptions for
13 charter schools relate to county zoning laws. The legislature
14 attempted to clarify this issue in H.B. No. 2911, C.D. 1,
15 regular session of 2004. The measure provided that charter
16 schools are subject to state land use laws and to county laws,
17 codes, and rules governing land use. The measure also subjected



1 charter schools to audit and inspection by the charter school
2 administrative office. The measure was passed by the
3 legislature, but vetoed by the governor (Governor's Message No.
4 430) on the basis that "charter schools have had to struggle
5 under laws that are unclear, incomplete, uncoordinated, and
6 sometimes so oblique as to be unreasonable.... [The] bill
7 compounds the unfairness charter schools already suffer by
8 singling charter schools out from all other state agencies and
9 subjecting them to county zoning ordinances which other state
10 agencies need not comply."

11 The legislature finds that the department of education
12 schools are subject to county zoning ordinances and rules. The
13 intent of H.B. No. 2911 was not to create an exemption from
14 county zoning ordinances but instead to make charter schools
15 comply with zoning ordinances to the same extent required of all
16 other department of education schools. The legislature notes
17 that all other state agencies, including the department of
18 education, are required to comply with county zoning ordinances
19 and rules.

20 The purpose of this Act is to require charter schools to
21 comply with state land use laws and county zoning laws and be
22 subject to audit by the board of education.



1 SECTION 2. Section 302B-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§302B-9 Exemptions from state laws.** (a) Charter schools
4 shall be exempt from chapters 91 and 92 and all other state laws
5 in conflict with this chapter, except those regarding:

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

7 (A) The exclusive representatives as defined in
8 chapter 89 and the local school board of the
9 charter school may enter into supplemental
10 agreements that contain cost and noncost items to
11 facilitate decentralized decision-making;

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

19 (C) These supplemental agreements may differ from the
20 master contracts negotiated with the department;

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

22 (3) Health and safety requirements.



1 (b) With regard to land use and zoning laws, charter
2 schools shall be subject, in the same manner as other state
3 departments and agencies without an applicable statutory
4 exemption, to the requirements of chapter 205 and all county
5 ordinances and rules relating to land use, zoning, subdivisions,
6 and building and construction standards and requirements for
7 occupancy.

8 [~~(b)~~] (c) Charter schools and the office shall be exempt
9 from chapter 103D, but shall develop internal policies and
10 procedures for the procurement of goods, services, and
11 construction, consistent with the goals of public accountability
12 and public procurement practices. Charter schools and the
13 office are encouraged to use the provisions of chapter 103D
14 where possible; provided that the use of one or more provisions
15 of chapter 103D shall not constitute a waiver of the exemption
16 from chapter 103D and shall not subject the charter school or
17 the office to any other provision of chapter 103D. Charter
18 schools and the office shall account for funds expended for the
19 procurement of goods and services, and this accounting shall be
20 available to the public~~[-]~~ and be subject to inspection and
21 audit by the board to determine whether the schools and the



1 office are in compliance with the policies and procedures of the
2 office.

3 [~~(e)~~] (d) Any charter school, prior to the beginning of
4 the school year, may enter into an annual contract with any
5 department for centralized services to be provided by that
6 department.

7 [~~(d)~~] (e) Notwithstanding any law to the contrary, as
8 public schools and entities of the State, neither a charter
9 school nor the office may bring suit against any other entity or
10 agency of the State."

11 SECTION 3. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun, before its effective date.

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

17

INTRODUCED BY: Clement K. Ito



Report Title:

Education; Public Charter Schools

Description:

Clarifies that public charter schools are subject to state land use laws and county zoning laws. Makes fund accounts subject to inspection and audit by the board of education.

