



GOV. MSG. NO. 703

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

June 3, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 3, 2009, the following bill was signed into law:

SB496 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO CHARTER SCHOOLS.
ACT 086 (09)

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 SECTION 1. The legislature finds that, pursuant to Act
2 115, Session Laws of Hawaii 2007, the legislature sought to
3 improve the public charter school system by clarifying the
4 functions, duties, and roles of the charter school review panel
5 and the board of education in the administration and operations
6 of charter schools in the State. The legislature further finds
7 that although the changes made were important and effective in
8 assisting in charter schools administration, additional reform
9 is necessary to allow charter schools in the State to continue
10 to strive for excellence through effective and efficient
11 operations.

12 The purpose of this Act is to make clarifying amendments to
13 charter school administration, including among other things:

- 14 (1) Clarifying that the charter school review panel is
15 subject to the requirements of the sunshine law;
- 16 (2) Authorizing the board of education to remove a charter
17 school review panel member for cause;



- 1 (3) Requiring the charter school review panel to approve
- 2 the charter schools budget;
- 3 (4) Requiring the charter school review panel to survey
- 4 all charter school facilities prior to determining
- 5 recommendations to allocate non-per-pupil facilities
- 6 funds to charter schools with facilities needs;
- 7 (5) Specifying the duties of the executive director of the
- 8 charter school administrative office with regard to
- 9 the preparation of the budget;
- 10 (6) Changing the requirements for the per-pupil funding;
- 11 (7) Requiring the charter school review panel to evaluate
- 12 a charter school on its fourth anniversary and every
- 13 five years after; and
- 14 (8) Requiring the charter school review panel to establish
- 15 criteria and an approval process for the development
- 16 and submission of a capital improvement projects
- 17 budget for charter school facilities.

18 SECTION 2. Section 302B-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "local school board" to
20 read as follows:

21 "Local school board" means the autonomous governing body
22 of a charter school that [~~receives~~]:



- 1 (1) Receives the charter and is responsible for the
- 2 financial and academic viability of the charter school
- 3 and implementation of the charter~~[, possesses]~~;
- 4 (2) Possesses the independent authority to determine the
- 5 organization and management of the school, the
- 6 curriculum, virtual education, and compliance with
- 7 applicable federal and state laws~~[, [and] has]~~; and
- 8 (3) Has the power to negotiate supplemental collective
- 9 bargaining agreements with exclusive representatives
- 10 of their employees."

11 SECTION 3. Section 302B-3, Hawaii Revised Statutes, is
 12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) There is established the charter school review panel,
 15 ~~[which]~~ that shall be placed within the department for
 16 administrative purposes only. The panel shall be accountable to
 17 the charter schools and the board. Notwithstanding section
 18 302B-9~~[,]~~ and any other law to the contrary, the panel shall be
 19 subject to chapter 92."

20 2. By amending subsection (e) to read:

21 "(e) Notwithstanding the terms of members, the board may
 22 add panel members at any time and replace panel members at any



1 time when their positions become vacant through resignation,
2 through non-participation, [æ] upon request of a majority of
3 panel members[-], or upon termination by the board for cause."

4 3. By amending subsection (i) to read:

5 "(i) The powers and duties of the panel shall be to:

6 (1) Appoint and evaluate the executive director and
7 approve staff and salary levels for the charter school
8 administrative office;

9 (2) Review, approve, or deny charter applications for new
10 charter schools in accordance with section 302B-5 for
11 the issuance of new charters; provided that applicants
12 that are denied a charter may appeal to the board for
13 a final decision pursuant to section 302B-3.5;

14 (3) Review, approve, or deny significant amendments to
15 detailed implementation plans to maximize the school's
16 financial and academic success, long-term
17 organizational viability, and accountability. Charter
18 schools that are denied a significant amendment to
19 their detailed implementation plan may appeal to the
20 board for a final decision pursuant to section
21 302B-3.5;

22 (4) Adopt reporting requirements for charter schools;



- 1 (5) Review annual self-evaluation reports from charter
2 schools and take appropriate action;
- 3 (6) Evaluate any aspect of a charter school that the panel
4 may have concerns with and take appropriate action,
5 which may include probation or revocation;
- 6 (7) Periodically adopt improvements in the panel's
7 monitoring and oversight of charter schools; [~~and~~]
- 8 (8) Periodically adopt improvements in the office's
9 support of charter schools and management of the
10 charter school system[-];
- 11 (9) Review, modify, and approve charter schools' all means
12 of finance budget, based upon criteria and an approval
13 process established by the panel; and
- 14 (10) Survey all charter school facilities prior to, and in
15 preparation for, determining recommendations to
16 allocate non-per-pupil facilities funds to charter
17 schools with facilities needs. The survey shall
18 include, at minimum, for each charter school facility:
 - 19 (A) The current status of the facility;
 - 20 (B) Facilities costs, including all rents, leases,
21 purchases, and repair and maintenance for lands
22 and buildings;



- 1 (C) A prioritized list of facilities needs;
- 2 (D) Any capital improvement projects underway or
- 3 scheduled; and
- 4 (E) Whether the facility is a conversion or start-up
- 5 charter school, and current and projected
- 6 enrollment."

7 SECTION 4. Section 302B-8, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (b) to read:

10 "(b) The executive director, under the direction of the
11 panel and in consultation with the charter schools, shall be
12 responsible for the internal organization, operation, and
13 management of the charter school system, including:

- 14 (1) Preparing and executing the budget and the capital
- 15 improvement projects request for the charter schools,
- 16 including submission of the all means of finance
- 17 budget request that reflects all anticipated
- 18 expenditures to the panel, the board, the governor,
- 19 and the legislature; provided that, in preparing the
- 20 budget request with regard to facilities funding, the
- 21 executive director shall ensure that, as a budget item



- 1 separate from other operating costs, the request
2 provides:
- 3 (A) Funding for projected enrollment for the next
4 school year for each charter school;
- 5 (B) A calculation showing the per-pupil funding based
6 on the department of budget and finance's debt
7 service appropriation for the department of
8 education divided by the department of
9 education's actual enrollment that school year;
10 and
- 11 (C) That no less than seventy per cent of the amount
12 appropriated shall be allocated by the office to
13 start-up charter schools on a per-pupil basis;
14 provided that the funds remaining shall be
15 allocated to charter schools with facilities
16 needs as recommended by the office and approved
17 by the panel;
- 18 (2) Allocating annual appropriations to the charter
19 schools and distribution of federal funds to charter
20 schools;
- 21 (3) Complying with applicable state laws related to the
22 administration of the charter schools;



- 1 (4) Preparing contracts between the charter schools and
2 the department for centralized services to be provided
3 by the department;
- 4 (5) Preparing contracts between the charter schools and
5 other state agencies for financial or personnel
6 services to be provided by the agencies to the charter
7 schools;
- 8 (6) Providing independent analysis and recommendations on
9 charter school issues;
- 10 (7) Representing charter schools and the charter school
11 system in communications with the board, the governor,
12 and the legislature;
- 13 (8) Providing advocacy, assistance, and support for the
14 development, growth, progress, and success of charter
15 schools and the charter school system;
- 16 (9) Providing guidance and assistance to charter
17 applicants and charter schools to enhance the
18 completeness and accuracy of information for panel
19 review;
- 20 (10) Assisting charter applicants and charter schools in
21 coordinating their interactions with the panel as
22 needed;



- 1 (11) Assisting the panel to coordinate with charter schools
- 2 in panel investigations and evaluations of charter
- 3 schools;
- 4 (12) Serving as the conduit to disseminate communications
- 5 from the panel, the board, and the department to all
- 6 charter schools;
- 7 (13) Determining charter school system needs and
- 8 communicating those needs to the panel, the board, and
- 9 the department;
- 10 (14) Establishing a dispute resolution and mediation
- 11 process; and
- 12 (15) Upon request by one or more charter schools, assisting
- 13 in the negotiation of a collective bargaining
- 14 agreement with the exclusive representative of its
- 15 employees."

16 2. By amending subsection (d) to read:

17 "(d) The salary of the executive director and staff shall

18 be set by the panel based upon the recommendations of charter

19 schools within the State; provided that the salaries and

20 operational expenses of the office shall be paid from the annual

21 charter school appropriation and shall not exceed two per cent



1 of the total general fund allocation [~~in any fiscal year.~~] at an
2 amount to be determined annually by the panel."

3 SECTION 5. Section 302B-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§302B-12 **Funding and finance.** (a) Beginning with fiscal
6 year [~~2006-2007,~~] 2009-2010, and each fiscal year thereafter,
7 [~~the office shall submit a request for general fund~~
8 ~~appropriations for each charter school based upon:~~] the
9 non-facility per-pupil funding request for charter school
10 students shall not be less than the per-pupil amount to the
11 department in the most recently approved executive budget
12 recommendation for the department, as set forth in paragraph
13 (2); provided that:

14 (1) The [~~actual and~~] per-pupil funding request shall
15 include funding for projected enrollment figures [~~in~~
16 ~~the current school year~~] for each charter school; and

17 (2) [A] The per-pupil [~~amount~~] request for each regular
18 education and special education student [~~, which shall~~
19 ~~be equivalent to the total per pupil cost based upon~~
20 ~~average enrollment in~~] shall:

21 (A) Include all regular education cost categories,
22 including comprehensive school support services,



1 but excluding special education services [~~and~~
2 ~~for~~]; provided that special education services
3 are provided and funded by the department;

4 (B) Include all means of financing except federal
5 funds, as reported in the most recently-approved
6 executive budget recommendations for the
7 department; provided that in preparing the budget
8 the executive director shall include an analysis
9 of the proposed budget in relationship to the
10 most recently published department consolidated
11 annual financial report [~~provided further that~~
12 ~~the legislature may make an adjustment to the~~
13 ~~per pupil allocation for the purposes of this~~
14 ~~section~~]; and

15 (C) Exclude fringe benefit costs and debt service.

16 [~~(3) These fringe~~] (b) Fringe benefit costs [requested]
17 for charter school employees, regardless of the payroll system
18 utilized by a charter school, shall be included in the
19 department of budget and finance's annual budget request. No
20 fringe benefit costs shall be charged directly to or deducted
21 from the charter school per-pupil allocations [~~unless they are~~



1 ~~already included in the funds distributed to the charter~~
2 ~~school].~~

3 The legislature shall make an appropriation based upon the
4 budget request; provided that the legislature may make
5 additional appropriations for fringe, workers' compensation, and
6 other employee benefits[~~7~~] and facility costs[~~7~~and]. The
7 legislature may make additional appropriations for other
8 requested amounts[~~-~~] that benefit charter schools.

9 The governor, pursuant to chapter 37, may impose
10 restrictions or reductions on charter school appropriations
11 similar to those imposed on other public schools.

12 [~~(b)~~] (c) Charter schools shall be eligible for all
13 federal financial support to the same extent as all other public
14 schools. The department shall provide the office with all
15 state-level federal grant proposals submitted by the department
16 that include charter schools as potential recipients and timely
17 reports on state-level federal grants received for which charter
18 schools may apply or are entitled to receive. Federal funds
19 received by the department for charter schools shall be
20 transferred to the office for distribution to charter schools in
21 accordance with the federal requirements. If administrative
22 services related to federal grants and subsidies are provided to



1 the charter school by the department, the charter school shall
2 reimburse the department for the actual costs of the
3 administrative services in an amount that shall not exceed six
4 and one-half per cent of the charter school's federal grants and
5 subsidies.

6 Any charter school shall be eligible to receive any
7 supplemental federal grant or award for which any other public
8 school may submit a proposal, or any supplemental federal grants
9 limited to charter schools; provided that if department
10 administrative services, including funds management, budgetary,
11 fiscal accounting, or other related services, are provided with
12 respect to these supplemental grants, the charter school shall
13 reimburse the department for the actual costs of the
14 administrative services in an amount that shall not exceed six
15 and one-half per cent of the supplemental grant for which the
16 services are used.

17 All additional funds generated by the local school boards,
18 that are not from a supplemental grant, shall be held separate
19 from allotted funds and may be expended at the discretion of the
20 local school boards.

21 [~~e~~] (d) To enable charter schools to access state
22 funding prior to the start of each school year, foster their



1 fiscal planning, and enhance their accountability, the office
2 shall:

3 (1) Provide fifty per cent of a charter school's per-pupil
4 allocation based on the charter school's projected
5 student enrollment no later than July 20 of each
6 fiscal year; provided that the charter school shall
7 have submitted to the office a projected student
8 enrollment no later than May 15 of each year;

9 (2) Provide an additional forty per cent of a charter
10 school's per-pupil allocation no later than
11 November 15 of each year; provided that the charter
12 school shall have submitted to the office:

13 (A) Student enrollment as verified on October 15 of
14 each year; provided that the student enrollment
15 shall be verified on the last business day
16 immediately prior to October 15 should that date
17 fall on a weekend; and

18 (B) An accounting of the percentage of student
19 enrollment that transferred from public schools
20 established and maintained by the department;
21 provided that these accountings shall also be
22 submitted by the office to the legislature no



1 later than twenty days prior to the start of each
2 regular session; and

3 (3) Retain [~~the remaining~~] no more than ten per cent of a
4 charter school's per-pupil allocation no later than
5 [~~January 1~~] June 30 of each year as a contingency
6 balance to ensure fiscal accountability[~~+~~] and
7 compliance;

8 provided that the panel may make adjustments in allocations
9 based on noncompliance with [~~federal and state reporting~~
10 ~~requirements,~~] board policies made in the board's capacity as
11 the state education agency, department directives made in the
12 department's capacity as the state education agency, the
13 office's administrative procedures, and board-approved
14 accountability requirements.

15 [~~(d)~~] (e) The department shall provide appropriate
16 transitional resources to a conversion charter school for its
17 first year of operation as a charter school based upon the
18 department's allocation to the school for the year prior to the
19 conversion.

20 [~~(e)~~] (f) No start-up charter school or conversion charter
21 school may assess tuition."



1 SECTION 6. Section 302B-14, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (b) to read:

4 "(b) The panel shall conduct a multi-year [evaluations]
5 evaluation of each charter [schools that have been chartered for
6 four or more years.] school on its fourth anniversary year and
7 every five years thereafter. The panel may from time to time
8 establish a schedule to stagger the multi-year evaluations."

9 2. By amending subsection (g) to read:

10 "(g) If there is an immediate concern for student or
11 employee health or safety at a charter school, the panel, in
12 consultation with the office, may adopt an interim restructuring
13 plan that may include the appointment of an interim local school
14 board, an interim local school board chairperson, or a principal
15 to temporarily assume operations of the school; provided that if
16 possible without further jeopardizing the health or safety of
17 students and employees, the charter school's stakeholders and
18 community are first given the opportunity to elect a new local
19 school board which shall appoint a new interim principal. The
20 board shall have the authority to direct the panel to take
21 appropriate action to immediately address serious health and
22 safety issues that may exist at a charter school in order to



1 ensure the health and safety of students and employees and
2 mitigate significant liability to the State."

3 SECTION 7. (a) The charter school review panel shall
4 establish criteria and an approval process for the development
5 and submission of a capital improvement projects budget for
6 charter school facilities, and recommendations to allocate non-
7 per-pupil facilities funds to charter schools with facilities
8 needs, including:

9 (1) A calculation showing the per-pupil funding based on
10 the department of budget and finance's debt service
11 appropriation for the department of education divided
12 by the department of education's actual enrollment
13 that school year; and

14 (2) A determination of the portion of the amount
15 appropriated to be allocated to start-up charter
16 schools on a per-pupil basis.


17 (b) The charter school review panel shall report its
18 findings and recommendations, including any budget requests and
19 proposed legislation, to the legislature no later than twenty
20 days prior to the convening of the regular session of 2010.

21 SECTION 8. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2009.

APPROVED this 3 day of JUN, 2009


GOVERNOR OF THE STATE OF HAWAII