

JAN 26 2009

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 SECTION 1. The Hawaii State Legislature continues to
2 affirm that charter schools, as a legitimate part of the State's
3 public educational system, should receive funding that is
4 equitable to that of other state public schools. The Act shall
5 be known as the Charter School Restoration and Improvement Act.

6 SECTION 2. Section 302B-3, Hawaii Revised Statutes, is
7 amended by amending subsection (i) to read as follows:

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

9 (1) Appoint and evaluate the executive director and
10 approve staff and salary levels for the charter school
11 administrative office;

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

17 (3) Review, approve, or deny significant amendments to
18 detailed implementation plans to maximize the school's

1 financial and academic success, long-term
2 organizational viability, and accountability. Charter
3 schools that are denied a significant amendment to
4 their detailed implementation plan may appeal to the
5 board for a final decision pursuant to section
6 302B-3.5;

7 (4) Adopt reporting requirements for charter schools;

8 (5) Review annual self-evaluation reports from charter
9 schools and take appropriate action;

10 (6) Evaluate any aspect of a charter school that the panel
11 may have concerns with and take appropriate action,
12 which may include probation or revocation;

13 (7) Periodically adopt improvements in the panel's
14 monitoring and oversight of charter schools; [~~and~~]

15 (8) Periodically adopt improvements in the office's
16 support of charter schools and management of the
17 charter school system[-];

18 (9) Approve the charter schools' budget submission,
19 including any request for capital improvement funding;
20 and

1 (10) Review, modify, or approve recommendations of the
2 office to allocate funds to charter schools as
3 needed."

4 SECTION 3. Section 302B-8, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

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

10 (1) Preparing and executing the budget for the charter
11 schools, including submission of the budget request to
12 the [~~board,~~] panel, the governor, and the legislature;

13 (2) Allocating annual appropriations to the charter
14 schools and distribution of federal funds to charter
15 schools;

16 (3) Complying with applicable state laws related to the
17 administration of the charter schools;

18 (4) Preparing contracts between the charter schools and
19 the department for centralized services to be provided
20 by the department;

21 (5) Preparing contracts between the charter schools and
22 other state agencies for financial or personnel

S.B. NO. 899

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

1 (12) Serving as the conduit to disseminate communications
2 from the panel, the board, and the department to all
3 charter schools;

4 (13) Determining charter school system needs and
5 communicating those needs to the panel, the board, and
6 the department;

7 (14) Establishing a dispute resolution and mediation
8 process; and

9 (15) Upon request by one or more charter schools, assisting
10 in the negotiation of a collective bargaining
11 agreement with the exclusive representative of its
12 employees."

13 SECTION 4. Chapter 302B, Hawaii Revised Statutes, is
14 amended by adding a new section to read as follows:

15 "§302B- Facilities funding. (a) Beginning with fiscal
16 year 2009-2010, and for each fiscal year thereafter, a
17 facilities funding amount for charter school students shall
18 be appropriated provided that:

19 (1) A facilities funding amount shall be funded based on
20 actual lease and rent costs incurred by charter schools that
21 are not conversion charter schools.

S.B. NO. 899

1 (2) Repair and maintenance monies for conversion and non
2 conversion charter schools shall be based on the actual
3 projected repair and maintenance needs for the budget
4 period."

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

7 "**§302B-12 Funding and finance.** (a) Beginning with fiscal
8 year [~~2006-2007,~~] 2011-2012, and each fiscal year
9 thereafter, [~~the office shall submit a request for general~~
10 ~~fund appropriations for each charter school based upon:~~] the
11 per-pupil funding amount for charter school students shall:

12 (1) [~~The~~] Provide funding for actual and projected
13 enrollment figures in the current school year for each
14 charter school[~~+~~], including projected enrollment
15 counts for schools that have applied to the panel for
16 a charter prior to August 31; and

17 (2) A per-pupil amount for each regular education and
18 special education student, which shall be equivalent
19 to the total per-pupil cost based upon average
20 enrollment in all regular education cost categories,
21 including comprehensive school support services but
22 excluding special education services, and [~~for~~] shall

1 include all means of financing appropriated in the
2 most recently enacted department of education budget
3 ~~except [federal funds, as reported in the most~~
4 ~~recently approved executive budget recommendations for~~
5 ~~the department; provided that in preparing the budget~~
6 ~~the executive director shall include an analysis of~~
7 ~~the proposed budget in relationship to the most~~
8 ~~recently published department consolidated annual~~
9 ~~financial report; provided further that the~~
10 ~~legislature may make an adjustment to the per pupil~~
11 ~~allocation for the purposes of this section; and]~~
12 fringe benefit costs, debt service, and federal funds.

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

20 ~~The legislature shall make an appropriation based upon the~~
21 ~~budget request; provided that the legislature may make~~
22 ~~additional appropriations for fringe, workers' compensation, and~~

1 ~~other employee benefits, facility costs, and other requested~~
2 ~~amounts.~~

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

6 (b) Beginning with fiscal year 2011-2012, and for each
7 fiscal year thereafter, the office shall submit a request for
8 capital improvement project funding based on a prioritized
9 matrix of projects approved by the panel.

10 (c) Fringe benefit costs for charter school employees
11 shall be included in the department of budget and finance's
12 annual budget appropriation. Fringe benefit costs paid directly
13 by a charter school to a payroll system provider shall be
14 reimbursed by the department of budget and finance to the
15 charter school on a quarterly basis. No fringe benefit costs
16 shall be charged directly to or deducted from the charter school
17 per-pupil allocation.

18 (d) The legislature shall provide funding for charter
19 schools based upon the requirements of subsections (a) and (b)
20 and (c); provided that the legislature shall make additional
21 appropriations for fringe benefits, workers' compensation, and
22 other employee benefits. The legislature may make additional

1 appropriations for other requested amounts that benefit charter
2 schools including capital improvement projects.

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

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

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

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

16 ~~(e)~~(f) To enable charter schools to access state funding
17 prior to the start of each school year, foster their fiscal
18 planning, and enhance their accountability, the office shall:

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

1 have submitted to the office a projected student
2 enrollment no later than May 15 of each year;
3 (2) Provide an additional forty per cent of a charter
4 school's per-pupil allocation no later than
5 November 15 of each year; provided that the charter
6 school shall have submitted to the office:
7 (A) Student enrollment as verified on October 15 of
8 each year; provided that the student enrollment
9 shall be verified on the last business day
10 immediately prior to October 15 should that date
11 fall on a weekend; and
12 (B) An accounting of the percentage of student
13 enrollment that transferred from public schools
14 established and maintained by the department;
15 provided that these accountings shall also be
16 submitted by the office to the legislature no
17 later than twenty days prior to the start of each
18 regular session; and
19 (3) Retain the remaining ten per cent of a charter
20 school's per-pupil allocation no later than January 1
21 of each year as a contingency balance to ensure fiscal
22 accountability;

1 provided that the panel may make adjustments in allocations
2 based on noncompliance with federal and state reporting
3 requirements, the office's administrative procedures, and board-
4 approved accountability requirements.

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

10 ~~[(e)]~~ (h) No start-up charter school or conversion charter
11 school may assess tuition."

12 SECTION 6. Notwithstanding any existing section of
13 chapter 302B-12 subsection (a) is not effective for fiscal year
14 2009-2010 and fiscal year 2010-2011.

15 SECTION 7. In order to accommodate new charter school
16 students, there is appropriated out of the general revenues of
17 the state of Hawaii the sum of \$12,000,000, or so much thereof
18 as may be necessary for fiscal year 2009-2010, and \$12,000,000,
19 or so much thereof as may be necessary for fiscal year 2010-
20 2011, for costs associated with the operation of charter
21 schools. This appropriation is in addition to the monies
22 appropriated pursuant to the state biennium budget enacted in

S.B. NO. 899

1 the 2009 legislative session. The sums appropriated shall be
2 expended by the charter school administrative office.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: _____

~~_____~~
BY REQUEST

Report Title:

Charter Schools; Funding

Description:

Repeals the charter schools funding formula for two years and creates a new funding formula to be enacted on July 1, 2011. Makes a general revenue appropriation for charter schools for FY 2009-2010 and FY 2010-2011. Revises the duties of the Charter School Review Panel.

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS.

PURPOSE: The purpose of this bill is to suspend the current charter school funding formula for FY 2009-2010 and FY 2010-2011, appropriate \$12 million in each of the next two fiscal years for the charter schools, in addition to the amounts in the executive biennium budget for FY 2009-2010 and FY 2010-2011, and to replace the existing formula at the start of FY 2011-2012 that includes facilities funding and repair and maintenance monies.

MEANS: Add a new section to chapter 302B and amend sections 302B-3(i), 302B-8(b), and 302B-12, Hawaii Revised Statutes.

JUSTIFICATION: Act 115, Session Laws of Hawaii 2007, made substantial changes to the public charter school funding formula. The changes are unclear and have been interpreted in different ways by different parties.

The Legislature created a work group in 2007 to address the public charter school funding formula and report back to the legislature in 2008. The work group concluded its efforts and presented a recommendation to the legislature in January 2008.

Public charter school enrollments are increasing yearly, and the State should provide adequate interim funding to the charter schools until such time as the formula is revised. This bill proposes a public charter school funding formula starting in FY 2011-2012 based on the recommendations of the 2007 work group.

Currently, the executive director of the charter school administrative office is required to present the public charter school budget request to the board of education. This process is unnecessary as the board does not have authority to act on the budget request. This process also adds an unnecessary burden to the charter school review panel because it reduces the amount of time the panel has to consider the budget request due to scheduling conflicts between board hearings, panel hearings, and the budget submission deadline established by the department of budget and finance. Accordingly, this bill removes the requirement that the executive director present the public charter schools budget request to the board of education. The executive director may still provide a copy of the budget request to the board.

Impact on the public: The public continues to elect to send children to public charter schools and this is reflected in growing enrollment. This bill will ensure that charter schools are made whole in their per pupil funding, despite the current statutory formula, and provides for a new formula that recognizes the needs to provide for school facilities and repairs and maintenance of existing and proposed charter schools based on actual needs.

Impact on the department and other agencies: The measure will result in better administration of a successful public charter school system by giving public charter schools per pupil funding that is adequate to educate their current and projected level of enrollment.

GENERAL FUNDS: \$12,000,000 in FY 2009-2010
 \$12,000,000 in FY 2010-2011

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: None.

OTHER AFFECTED

AGENCIES: Charter School Administrative Office,
Charter School Review Panel, and Board of
Education.

EFFECTIVE DATE: July 1, 2009