
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 the charter school
2 movement has progressed over the past few decades into a system
3 with its own administrative office and review panel to operate,
4 maintain, and develop charter schools. The legislature finds
5 that the cap on the number of start-up and conversion charter
6 schools, originally intended to control the rapid growth of
7 charter schools beyond the State's ability to manage them, is no
8 longer necessary and may inhibit the further development and
9 growth of the charter school system.

10 With the growth and maturation of the charter school
11 system, however, the legislature also finds the need for greater
12 accountability and improved processes within the system to
13 ensure that prudent financial decisions are made and that a
14 standard of quality is maintained across all charter schools.

15 The purpose of this Act is to:

- 1 (1) Require the charter school review panel to determine a
2 clear process with rigorous criteria for charter
3 schools to be reauthorized;
- 4 (2) Require the charter school review panel to reauthorize
5 a charter school no later than four years following
6 the initial issue of the charter, and every four years
7 thereafter;
- 8 (3) Require the charter school administrative office to
9 withhold funds for its operational expenses, including
10 salaries for staff and the executive director;
- 11 (4) Require the charter school administrative office to
12 report annually to the charter school review panel
13 individual and aggregate expenditures of charter
14 schools, clearly distinguishing between expenditures
15 for operational and instructional purposes;
- 16 (5) Modify charter schools' general fund per-pupil request
17 requirements for each regular education and special
18 education student;
- 19 (6) Beginning with the 2010-2011 school year, require the
20 non-facility general fund per-pupil funding request
21 for charter school students to be the same as the
22 general fund per-pupil amount to the department of

1 education in the most recently approved executive
2 budget recommendation for the department;

3 (7) Establish an over-projection appropriation account to
4 collect excess appropriated funds, if any, when actual
5 student enrollment is less than projected student
6 enrollment;

7 (8) Require per-pupil allocation checks paid by the
8 charter school administrative office to individual
9 charter schools to be co-signed by the executive
10 director of the charter school administrative office
11 and an agent of the charter school review panel to
12 encourage more intentional and well-informed financial
13 decision making; and

14 (9) Repeal the cap on the number of start-up and
15 conversion charter schools.

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

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

19 (1) Appoint and evaluate the executive director and
20 approve staff and salary levels for the charter school
21 administrative office;

- 1 (2) Review, approve, or deny charter applications for new
2 charter schools in accordance with section 302B-5 for
3 the issuance of new charters; provided that applicants
4 that are denied a charter may appeal to the board for
5 a final decision pursuant to section 302B-3.5;
- 6 (3) Review, approve, or deny significant amendments to
7 detailed implementation plans to maximize the school's
8 financial and academic success, long-term
9 organizational viability, and accountability. Charter
10 schools that are denied a significant amendment to
11 their detailed implementation plan may appeal to the
12 board for a final decision pursuant to section
13 302B-3.5;
- 14 (4) Adopt reporting requirements for charter schools;
- 15 (5) Review annual self-evaluation reports from charter
16 schools and take appropriate action;
- 17 (6) Adopt a clear process and rigorous criteria for the
18 reauthorization of charter schools;
- 19 (7) Reauthorize each charter school no later than four
20 years following the initial issue of a charter and
21 every four years thereafter;

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

1 (D) Any capital improvement projects underway or
2 scheduled; and

3 (E) Whether the facility is a conversion or start-up
4 charter school, and current and projected
5 enrollment."

6 SECTION 3. Section 302B-8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§302B-8 Charter school administrative office.** (a) There
9 is established a charter school administrative office, which
10 shall be attached to the department for administrative purposes
11 only. The office shall be administered by an executive
12 director, who shall be appointed without regard to chapters 76
13 and 89 by the panel based upon the recommendations of an
14 organization of charter schools operating within the State or
15 from a list of nominees submitted by the charter schools. The
16 panel shall hire the executive director, who may be contracted
17 for a term of up to four years; shall offer the executive
18 director a written contract; and may terminate the executive
19 director's contract only for cause. The executive director,
20 with the approval of the panel, may hire necessary staff without
21 regard to chapters 76 and 89 to assist in the administration of
22 the office.

1 (b) The executive director, under the direction of the
2 panel and in consultation with the charter schools, shall be
3 responsible for the internal organization, operation, and
4 management of the charter school system, including:

5 (1) Preparing and executing the budget and the capital
6 improvement projects request for the charter schools,
7 including submission of the all means of finance
8 budget request that reflects all anticipated
9 expenditures to the panel, the board, the governor,
10 and the legislature; provided that, in preparing the
11 budget request with regard to facilities funding, the
12 executive director shall ensure that, as a budget item
13 separate from other operating costs, the request
14 provides:

15 (A) Funding for projected enrollment for the next
16 school year for each charter school;

17 (B) A calculation showing the per-pupil funding based
18 on the department of budget and finance's debt
19 service appropriation for the department of
20 education divided by the department of
21 education's actual enrollment that school year;

22 and

- 1 (C) That no less than seventy per cent of the amount
2 appropriated shall be allocated by the office to
3 start-up charter schools on a per-pupil basis;
4 provided that the funds remaining shall be
5 allocated to charter schools with facilities
6 needs as recommended by the office and approved
7 by the panel;
- 8 (2) Allocating annual appropriations to the charter
9 schools and distribution of federal funds to charter
10 schools;
- 11 (3) Complying with applicable state laws related to the
12 administration of the charter schools;
- 13 (4) Preparing contracts between the charter schools and
14 the department for centralized services to be provided
15 by the department;
- 16 (5) Preparing contracts between the charter schools and
17 other state agencies for financial or personnel
18 services to be provided by the agencies to the charter
19 schools;
- 20 (6) Providing independent analysis and recommendations on
21 charter school issues;

- 1 (7) Representing charter schools and the charter school
2 system in communications with the board, the governor,
3 and the legislature;
- 4 (8) Providing advocacy, assistance, and support for the
5 development, growth, progress, and success of charter
6 schools and the charter school system;
- 7 (9) Providing guidance and assistance to charter
8 applicants and charter schools to enhance the
9 completeness and accuracy of information for panel
10 review;
- 11 (10) Assisting charter applicants and charter schools in
12 coordinating their interactions with the panel as
13 needed;
- 14 (11) Assisting the panel to coordinate with charter schools
15 in panel investigations and evaluations of charter
16 schools;
- 17 (12) Serving as the conduit to disseminate communications
18 from the panel, the board, and the department to all
19 charter schools;
- 20 (13) Determining charter school system needs and
21 communicating those needs to the panel, the board, and
22 the department;

1 (14) Establishing a dispute resolution and mediation
2 process; and

3 (15) Upon request by one or more charter schools, assisting
4 in the negotiation of a collective bargaining
5 agreement with the exclusive representative of its
6 employees.

7 (c) The executive director shall be evaluated annually by
8 the panel. The annual evaluation shall be conducted
9 sufficiently in advance of the end of a term to provide the
10 executive director the opportunity to respond to concerns and
11 improve performance.

12 (d) The office shall withhold funds for its operational
13 expenses, including the salaries of the executive director and
14 staff, from the annual charter school general fund
15 appropriation. The total amount of operational expenses
16 withheld:

17 (1) Shall not exceed two per cent of the annual charter
18 school general fund allocation, which shall not
19 include any funds carried over from previous years;

20 (2) Shall not include the amount of funds withheld under
21 subsections (g) and (h); and

22 (3) Shall be determined annually by the panel.

1 The [~~salary~~] salaries of the executive director and staff shall
2 be set by the panel based upon the recommendations of charter
3 schools within the State[~~; provided that the salaries and~~
4 ~~operational expenses of the office shall be paid from the annual~~
5 ~~charter school appropriation and shall not exceed two per cent~~
6 ~~of the total general fund allocation at an amount to be~~
7 ~~determined annually by the panel.] and in accordance with the
8 requirements of this subsection.~~

9 (e) The office shall report annually to the review panel
10 individual and aggregate expenditures of charter schools,
11 clearly distinguishing between expenditures for operational
12 purposes and for instructional purposes. The office shall adopt
13 rules to develop a standardized method for charter schools to
14 report the expenditures and to determine expenditures that
15 constitute expenditures for operational expenses and
16 expenditures for instructional purposes. If any charter school
17 fails to meet the reporting requirements under this subsection,
18 the office may retain a portion of that charter school's per-
19 pupil allocation pursuant to section 302B-12(e) (3).

20 [~~(e)~~] (f) The office shall include in its annual budget
21 request additional funds to cover the estimated costs of:

- 1 (1) Vacation and sick leave accrued by employees
2 transferring to a charter school from another state
3 agency or department;
- 4 (2) Substitute teachers needed when a teacher is out on
5 vacation or sick leave;
- 6 (3) Adjustments to enrollments; and
- 7 (4) Arbitration in the grievance process.
- 8 [~~(f)~~] (g) The office shall withhold funds for charter
9 school enrollments that are inconsistent with approved detailed
10 implementation plans.
- 11 [~~(g)~~] (h) The office shall withhold funds to repay
12 overpayments or over-allocations received by charter schools
13 when not repaid in a timely manner in accordance with rules
14 adopted by the board.
- 15 [~~(h)~~] (i) The office may carry over funds from previous
16 year allocations. Funds distributed to charter schools shall be
17 considered expended."

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

20 "**§302B-12 Funding and finance.** (a) Beginning with fiscal
21 year [~~2009-2010,~~] 2010-2011, and each fiscal year thereafter,
22 the non-facility general fund per-pupil funding request for

1 charter school students shall ~~[not]~~ be ~~[less than]~~ the same as
2 the general fund per-pupil amount to the department in the most
3 recently approved executive budget recommendation for the
4 department, as set forth in paragraph (2); provided that:

5 (1) The general fund per-pupil funding request shall
6 ~~[include funding for]~~ be based upon reasonable
7 projected enrollment figures for ~~[each]~~ all charter
8 ~~[school;]~~ schools; and

9 (2) The general fund per-pupil request for each regular
10 education and special education student shall:

11 (A) Include all general fund regular education cost
12 categories, including comprehensive school
13 support services, but excluding special education
14 services~~[;]~~, adult education, and the after-
15 school plus program; provided that ~~[special~~
16 ~~education]~~ these services are provided and funded
17 by the department;

18 ~~[(B) Include all means of financing except federal~~
19 ~~funds, as reported in the most recently approved~~
20 ~~executive budget recommendations for the~~
21 ~~department; provided that in preparing the budget~~
22 ~~the executive director shall include an analysis~~

1 ~~of the proposed budget in relationship to the~~
2 ~~most recently published department consolidated~~
3 ~~annual financial report; and~~

4 ~~(C)]~~ (B) Exclude fringe benefit costs and debt service~~[-]~~;
5 and

6 (C) If there is a balance in the over-projection
7 appropriation account, as described in subsection
8 (d) (2), the general fund request shall be reduced
9 by the amount of the balance.

10 (b) Fringe benefit costs for charter school employees,
11 regardless of the payroll system utilized by a charter school,
12 shall be included in the department of budget and finance's
13 annual budget request. No fringe benefit costs shall be charged
14 directly to or deducted from the charter school per-pupil
15 allocations.

16 The legislature shall ~~[make]~~ consider the budget request
17 when making an appropriation [based upon the budget request];
18 provided that the legislature may make additional appropriations
19 for ~~[fringe, workers' compensation, and other employee benefits~~
20 ~~and] facility [costs. The legislature may make additional~~
21 ~~appropriations for other requested amounts that benefit charter~~
22 ~~schools.]~~ and other costs.

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 (c) 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 office with all
7 state-level federal grant proposals submitted by the department
8 that include charter schools as potential recipients and timely
9 reports on state-level federal grants received for which charter
10 schools may apply or are entitled to receive. Federal funds
11 received by the department for charter schools shall be
12 transferred to the 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 shall 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 shall not exceed six
7 and one-half per cent of the supplemental grant for which the
8 services are used.

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

13 (d) To avoid over-appropriating general funds to charter
14 schools based on self-reported enrollment projections, the
15 office shall:

16 (1) Allocate to charter schools no more than the per-pupil
17 appropriation for each charter school student;

18 (2) Place in an over-projection appropriation account the
19 amount of the difference between the projected
20 enrollment and the actual October 15 enrollment count,
21 as verified by the office, multiplied by the per-pupil
22 appropriation amount; and

1 (3) Report to the legislature no later than twenty days
2 prior to each regular session the amount of funds in
3 the account, a breakdown by school of the excess
4 appropriation due to an over-projection of enrollment,
5 and discussion on what modifications have been made to
6 the projection methodology to improve the accuracy of
7 future projections.

8 Funds shall not be expended from the over-projection
9 appropriation account and may only be transferred to schools by
10 approval of the legislature.

11 ~~(d)~~ (e) To enable charter schools to access state
12 funding prior to the start of each school year, foster their
13 fiscal planning, and enhance their accountability, the office
14 shall:

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

21 (2) Provide an additional forty per cent of a charter
22 school's per-pupil allocation no later than

1 November 15 of each year; provided that the charter
2 school shall have submitted to the office:

3 (A) Student enrollment as verified on October 15 of
4 each year; provided that the student enrollment
5 shall be verified on the last business day
6 immediately prior to October 15 should that date
7 fall on a weekend; and

8 (B) An accounting of the percentage of student
9 enrollment that transferred from public schools
10 established and maintained by the department;
11 provided that these accountings shall also be
12 submitted by the office to the legislature no
13 later than twenty days prior to the start of each
14 regular session; and

15 (3) Retain no more than ten per cent of a charter school's
16 per-pupil allocation no later than June 30 of each
17 year as a contingency balance to ensure fiscal
18 accountability and compliance;

19 provided that the panel may make adjustments in allocations
20 based on noncompliance with board policies made in the board's
21 capacity as the state education agency, department directives
22 made in the department's capacity as the state education agency,

1 the office's administrative procedures, and board-approved
2 accountability requirements.

3 (f) Any check transferring a per-pupil allocation from the
4 office to a charter school under this section shall be co-signed
5 by the executive director and an authorized agent of the charter
6 school review panel.

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

12 ~~[(f)]~~ (h) No start-up charter school or conversion charter
13 school may assess tuition."

14 SECTION 5. Section 302B-4, Hawaii Revised Statutes, is
15 repealed.

16 ~~["§302B-4 Limits on charter schools. The panel may~~
17 ~~authorize one new start-up charter school for each existing~~
18 ~~start-up charter school that has received a three-year or longer~~
19 ~~accreditation from the Western Association of Schools and~~
20 ~~Colleges or a comparable accreditation authority as determined~~
21 ~~by the panel, or for each start-up charter school whose charter~~

1 ~~is revoked. The total number of conversion charter schools~~
2 ~~authorized by the panel shall not exceed twenty-five."]~~

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

Report Title:

Charter Schools; Repeal Cap; Funding; Reauthorization

Description:

Makes several changes to the charter school system and charter schools funding to increase the accountability, efficiency, and quality of charter schools and the charter school system. (SD2)

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