
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 department of
2 education is considering the closure of certain non-charter
3 public schools due to departmental financial constraints. At
4 the same time, some public charter schools face daunting
5 obstacles such as the high cost of rent and less-than-desirable
6 location of their facilities.

7 The purpose of this Act is to require the department of
8 education to make available vacant school facilities or portions
9 of school facilities for use by charter schools and to make
10 changes to charter school funding to further encourage fairness
11 in funding and the availability of resources to charter schools.

12 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§302A- Use of vacant public school facilities by
16 charter schools. (a) When the department considers whether to
17 close any particular public school, it shall simultaneously give

1 reasonable consideration to making all or portions of the
2 facilities of the public school, if closed, available for
3 occupancy and use by a charter school. The department shall
4 submit a notice of possible availability of a public school to
5 the charter school review panel as early as possible; provided
6 that if a vacancy is established, a notice of vacancy shall be
7 submitted to the charter school review panel no later than
8 days of the establishment of the vacancy.

9 (b) Pursuant to section 302B- , upon receipt of a notice
10 pursuant to subsection (a), the charter school review panel
11 shall solicit applications from charter schools interested in
12 using and occupying all or portions of the facilities of the
13 public school and submit a prioritized list of charter schools
14 to the department for final determination of which, if any,
15 charter school shall be authorized to use and occupy the public
16 school facilities.

17 (c) Upon the selection of a charter school to use a vacant
18 school facility or portion of a school facility, the department
19 and the charter school review panel shall enter into necessary
20 agreements within days of the selection to carry out the
21 purposes of this section.

1 (d) After receipt by the charter school review panel of a
2 notice pursuant to subsection (a), if the charter school review
3 panel does not provide a prioritized list of charter schools
4 because no charter school has requested to use the facilities of
5 the public school, or if the department receives the prioritized
6 list but determines that no charter school on the list is an
7 appropriate candidate to occupy and use the facilities, the
8 department shall give reasonable consideration to making all or
9 portions of the facilities of the public school, if closed,
10 available for occupancy and use for other educational purposes.

11 (e) The department shall adopt rules, pursuant to chapter
12 91, necessary to carry out the purposes of this section.

13 (f) For purposes of this section:

14 "Public school" means any school that falls within the
15 definition of public schools in section 302A-101, except for
16 charter schools."

17 SECTION 3. Chapter 302B, Hawaii Revised Statutes, is
18 amended by adding two new sections to be appropriately
19 designated and to read as follows:

20 "**§302B- Occupancy and use of facilities of public**
21 **schools.** (a) When the department considers whether to close
22 any particular public school, the department shall submit a

1 notice of possible availability of a public school or notice of
2 vacancy of a public school to the charter school review panel
3 pursuant to section 302A- (a).

4 (b) Upon receipt of a notice pursuant to section
5 302A- (a), the charter school review panel shall solicit
6 applications from charter schools interested in using and
7 occupying all or portions of the facilities of the public school
8 by:

9 (1) Promptly notifying all charter schools that the public
10 school is being considered for closure;

11 (2) Affording each charter school an opportunity to submit
12 an application with a written explanation and
13 justification of why the charter school should be
14 considered for possible occupancy and use of the
15 facilities of the public school;

16 (3) Fully considering the charter school's application;
17 and

18 (4) Providing a written response to each charter school's
19 application after the application has been fully
20 considered.

21 (c) Based on the application and on other considerations,
22 the charter school review panel shall compile a prioritized list

1 of charter schools and submit the list to the department for
2 final determination of which, if any, charter school shall be
3 authorized to use and occupy the public school facilities.

4 (d) Upon the selection of a charter school to use a vacant
5 school facility or portion of a school facility, the department
6 and the panel shall enter into necessary agreements within
7 days of the selection to carry out the purposes of this section;
8 provided that any agreement between the panel and the department
9 shall stipulate that a charter school that uses and occupies a
10 public school facility or portion of a public school facility
11 shall be responsible for the full or pro rata share of the
12 repair and maintenance costs for that facility or portion of the
13 facility, as the case may be.

14 (e) The panel shall adopt rules, pursuant to chapter 91,
15 necessary to carry out the purposes of this section, including
16 but not limited to:

17 (1) Procedures for charter schools to apply in writing to
18 use vacant school facilities;

19 (2) Criteria for the panel to use in determining which
20 charter schools to include on the prioritized list to
21 be submitted to the department; and

1 (3) Procedures for the panel to notify charter school
2 applicants that are granted and not granted the use of
3 vacant school facilities.

4 (f) For purposes of this section:

5 "Public school" means any school that falls within the
6 definition of public schools in section 302A-101, except for
7 charter schools."

8 SECTION 4. Section 302A-1151, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§~~**302A-1151**~~§~~ **Sale of school lands unnecessary for**
11 **school purposes.** The chairperson of the board of land and
12 natural resources is hereby requested, upon the recommendation
13 and approval of the superintendent, to sell any state lands,
14 including the buildings thereon, once used but no longer
15 necessary for school purposes~~[-];~~ provided that no school
16 facility or portion of a school facility shall be sold before
17 that facility or portion of the facility is made available for
18 use by charter schools, pursuant to sections 302A- and
19 302B- ."

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

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

- 1 (1) Appoint and evaluate the executive director and
2 approve staff and salary levels for the charter school
3 administrative office;
- 4 (2) Review, approve, or deny charter applications for new
5 charter schools in accordance with section 302B-5 for
6 the issuance of new charters; provided that applicants
7 that are denied a charter may appeal to the board for
8 a final decision pursuant to section 302B-3.5;
- 9 (3) Review, approve, or deny significant amendments to
10 detailed implementation plans to maximize the school's
11 financial and academic success, long-term
12 organizational viability, and accountability. Charter
13 schools that are denied a significant amendment to
14 their detailed implementation plan may appeal to the
15 board for a final decision pursuant to section
16 302B-3.5;
- 17 (4) Pursuant to section 302B- , compile and submit
18 prioritized lists of charter schools to the department
19 and enter into necessary agreements with the
20 department to authorize charter schools to use and
21 occupy vacant public school facilities or portions of
22 school facilities;

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

- 1 (B) Facilities costs, including all rents, leases,
2 purchases, and repair and maintenance for lands
3 and buildings;
- 4 (C) A prioritized list of facilities needs;
- 5 (D) Any capital improvement projects underway or
6 scheduled; and
- 7 (E) Whether the facility is a conversion or start-up
8 charter school, and current and projected
9 enrollment."

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

12 "**§302B-12 Funding and finance.** (a) Beginning with fiscal
13 year [~~2009-2010,~~] 2010-2011, and each fiscal year thereafter,
14 the non-facility general fund per-pupil funding request for
15 charter school students shall [~~not~~] be [~~less than~~] the same as
16 the general fund per-pupil amount to the department in the most
17 recently approved executive budget recommendation for the
18 department, as set forth in paragraph (2); provided that:

- 19 (1) The general fund per-pupil funding request shall
20 [~~include funding for~~] be based upon reasonable
21 projected enrollment figures for [~~each~~] all charter
22 [~~school,~~] schools; and

- 1 (2) The general fund per-pupil request for each regular
2 education and special education student shall:
- 3 (A) Include all general fund regular education cost
4 categories, including comprehensive school
5 support services, but excluding special education
6 services~~[+]~~, adult education, and the after-
7 school plus program; provided that ~~[special~~
8 ~~education]~~ these services are provided and funded
9 by the department;
- 10 ~~[(B) Include all means of financing except federal~~
11 ~~funds, as reported in the most recently approved~~
12 ~~executive budget recommendations for the~~
13 ~~department; provided that in preparing the budget~~
14 ~~the executive director shall include an analysis~~
15 ~~of the proposed budget in relationship to the~~
16 ~~most recently published department consolidated~~
17 ~~annual financial report; and~~
- 18 ~~-(C)]~~ (B) Exclude fringe benefit costs and debt
19 service~~[+]~~; and
- 20 (C) If there is a balance in the over-projection
21 appropriation account, as described in subsection

1 (d) (2), the general fund request shall be reduced
2 by the amount of the balance.

3 (b) Fringe benefit costs for charter school employees,
4 regardless of the payroll system utilized by a charter school,
5 shall be included in the department of budget and finance's
6 annual budget request. No fringe benefit costs shall be charged
7 directly to or deducted from the charter school per-pupil
8 allocations.

9 The legislature shall [~~make~~] consider the budget request
10 when making an appropriation [~~based upon the budget request~~];
11 provided that the legislature may make additional appropriations
12 for [~~fringe, workers' compensation, and other employee benefits~~
13 ~~and] facility [~~costs. The legislature may make additional~~~~
14 ~~appropriations for other requested amounts that benefit charter~~
15 ~~schools.] and other costs.~~

16 The governor, pursuant to chapter 37, may impose
17 restrictions or reductions on charter school appropriations
18 similar to those imposed on other public schools.

19 (c) Charter schools shall be eligible for all federal
20 financial support to the same extent as all other public
21 schools. The department shall provide the office with all
22 state-level federal grant proposals submitted by the department

1 that include charter schools as potential recipients and timely
2 reports on state-level federal grants received for which charter
3 schools may apply or are entitled to receive. Federal funds
4 received by the department for charter schools shall be
5 transferred to the office for distribution to charter schools in
6 accordance with the federal requirements. If administrative
7 services related to federal grants and subsidies are provided to
8 the charter school by the department, the charter school shall
9 reimburse the department for the actual costs of the
10 administrative services in an amount that shall not exceed six
11 and one-half per cent of the charter school's federal grants and
12 subsidies.

13 Any charter school shall be eligible to receive any
14 supplemental federal grant or award for which any other public
15 school may submit a proposal, or any supplemental federal grants
16 limited to charter schools; provided that if department
17 administrative services, including funds management, budgetary,
18 fiscal accounting, or other related services, are provided with
19 respect to these supplemental grants, the charter school shall
20 reimburse the department for the actual costs of the
21 administrative services in an amount that shall not exceed six

1 and one-half per cent of the supplemental grant for which the
2 services are used.

3 All additional funds generated by the local school boards,
4 that are not from a supplemental grant, shall be held separate
5 from allotted funds and may be expended at the discretion of the
6 local school boards.

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

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

12 (2) Place in an over-projection appropriation account the
13 amount of the difference between the projected
14 enrollment and the actual October 15 enrollment count,
15 as verified by the office, multiplied by the per-pupil
16 appropriation amount; and

17 (3) Report to the legislature no later than twenty days
18 prior to each regular session the amount of the funds
19 in the account, a breakdown by school of the excess
20 appropriation due to an over-projection of enrollment,
21 and discussion on what modifications have been made to

1 the projection methodology to improve the accuracy of
2 future projections.

3 Funds shall not be expended from the over-projection
4 appropriation account and may only be transferred to schools by
5 approval of the legislature.

6 ~~(d)~~ (e) To enable charter schools to access state
7 funding prior to the start of each school year, foster their
8 fiscal planning, and enhance their accountability, the office
9 shall:

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

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

20 (A) Student enrollment as verified on October 15 of
21 each year; provided that the student enrollment
22 shall be verified on the last business day

1 immediately prior to October 15 should that date
2 fall on a weekend; and

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

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

14 provided that the panel may make adjustments in allocations
15 based on noncompliance with board policies made in the board's
16 capacity as the state education agency, department directives
17 made in the department's capacity as the state education agency,
18 the office's administrative procedures, and board-approved
19 accountability requirements.

20 (f) Any check transferring a per-pupil allocation from the
21 office to a charter school under this section shall be co-signed

1 by the executive director and an authorized agent of the charter
2 school review panel.

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

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

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2050.

Report Title:

Charter Schools; Vacant School Facilities

Description:

Requires the DOE to make available vacant school facilities or portions of school facilities for use by charter schools. Requires the charter school review panel to compile a prioritized list of charter schools that wish to use vacant school facilities or portions of school facilities. Makes changes to charter school funding. Takes effect 7/1/2050. (SD2)

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