

JAN 22 2010

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# 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 three years following  
6                   the initial issue of the charter, and every five 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)   Require per-pupil allocation checks paid by the  
17                  charter school administrative office to individual  
18                  charter schools to be co-signed by the executive  
19                  director of the charter school administrative office  
20                  and an agent of the charter school review panel to  
21                  encourage more intentional and well-informed financial  
22                  decision making; and



1 (6) Repeal the cap on the number of start-up and  
2 conversion charter schools.

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

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 302B-  
21 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) Adopt a clear process and rigorous criteria for the  
4           reauthorization of charter schools;
- 5           (7) Reauthorize each charter school no later than three  
6           years following the initial issue of a charter and  
7           every five years thereafter;
- 8           ~~[(6)]~~ (8) Evaluate any aspect of a charter school that the  
9           panel may have concerns with and take appropriate  
10          action, which may include probation or revocation;
- 11          ~~[(7)]~~ (9) Periodically adopt improvements in the panel's  
12          monitoring and oversight of charter schools;
- 13          ~~[(8)]~~ (10) Periodically adopt improvements in the office's  
14          support of charter schools and management of the  
15          charter school system;
- 16          ~~[(9)]~~ (11) Review, modify, and approve charter schools' all  
17          means of finance budget, based upon criteria and an  
18          approval process established by the panel; and
- 19          ~~[(10)]~~ (12) Survey all charter school facilities prior to,  
20          and in preparation for, determining recommendations to  
21          allocate non-per-pupil facilities funds to charter



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

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

15 "**§302B-8 Charter school administrative office.** (a) There  
16 is established a charter school administrative office, which  
17 shall be attached to the department for administrative purposes  
18 only. The office shall be administered by an executive  
19 director, who shall be appointed without regard to chapters 76  
20 and 89 by the panel based upon the recommendations of an  
21 organization of charter schools operating within the State or  
22 from a list of nominees submitted by the charter schools. The



1 panel shall hire the executive director, who may be contracted  
2 for a term of up to four years; shall offer the executive  
3 director a written contract; and may terminate the executive  
4 director's contract only for cause. The executive director,  
5 with the approval of the panel, may hire necessary staff without  
6 regard to chapters 76 and 89 to assist in the administration of  
7 the office.

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

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



- 1 (A) Funding for projected enrollment for the next
- 2 school year for each charter school;
- 3 (B) A calculation showing the per-pupil funding based
- 4 on the department of budget and finance's debt
- 5 service appropriation for the department of
- 6 education divided by the department of
- 7 education's actual enrollment that school year;
- 8 and
- 9 (C) That no less than seventy per cent of the amount
- 10 appropriated shall be allocated by the office to
- 11 start-up charter schools on a per-pupil basis;
- 12 provided that the funds remaining shall be
- 13 allocated to charter schools with facilities
- 14 needs as recommended by the office and approved
- 15 by the panel;
- 16 (2) Allocating annual appropriations to the charter
- 17 schools and distribution of federal funds to charter
- 18 schools;
- 19 (3) Complying with applicable state laws related to the
- 20 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 (c) The executive director shall be evaluated annually by  
17 the panel. The annual evaluation shall be conducted  
18 sufficiently in advance of the end of a term to provide the  
19 executive director the opportunity to respond to concerns and  
20 improve performance.

21 (d) The office shall withhold funds for its operational  
22 expenses, including the salaries of the executive director and



1 staff, from the annual charter school general fund  
2 appropriation. The total amount of operational expenses  
3 withheld:

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

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

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

10 The ~~[salary]~~ salaries of the executive director and staff shall  
11 be set by the panel based upon the recommendations of charter  
12 schools within the State ~~[, provided that the salaries and~~  
13 ~~operational expenses of the office shall be paid from the annual~~  
14 ~~charter school appropriation and shall not exceed two per cent~~  
15 ~~of the total general fund allocation at an amount to be~~  
16 ~~determined annually by the panel.]~~ and in accordance with the  
17 requirements of this subsection.

18 (e) The office shall report annually to the review panel  
19 individual and aggregate expenditures of charter schools,  
20 clearly distinguishing between expenditures for operational  
21 purposes and for instructional purposes. The office shall adopt  
22 rules to develop a standardized method for charter schools to



1 report the expenditures and to determine expenditures that  
2 constitute expenditures for operational expenses and  
3 expenditures for instructional purposes. If any charter school  
4 fails to meet the reporting requirements under this subsection,  
5 the office may retain a portion of that charter school's per-  
6 pupil allocation pursuant to section 302B-12(d)(3).

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

- 9 (1) Vacation and sick leave accrued by employees  
10 transferring to a charter school from another state  
11 agency or department;
- 12 (2) Substitute teachers needed when a teacher is out on  
13 vacation or sick leave;
- 14 (3) Adjustments to enrollments; and
- 15 (4) Arbitration in the grievance process.

16 ~~[(f)]~~ (g) The office shall withhold funds for charter  
17 school enrollments that are inconsistent with approved detailed  
18 implementation plans.

19 ~~[(g)]~~ (h) The office shall withhold funds to repay  
20 overpayments or over-allocations received by charter schools  
21 when not repaid in a timely manner in accordance with rules  
22 adopted by the board.



1        [~~h~~] (i) The office may carry over funds from previous  
2 year allocations. Funds distributed to charter schools shall be  
3 considered expended."

4        SECTION 4. Section 302B-12, Hawaii Revised Statutes, is  
5 amended by amending subsection (d) to read as follows:

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

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

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

19        (A) Student enrollment as verified on October 15 of  
20 each year; provided that the student enrollment  
21 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 Any check transferring a per-pupil allocation from the  
21 office to a charter school under this subsection shall be co-



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

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

5 [~~"§302B-4 Limits on charter schools. The panel may~~  
6 ~~authorize one new start up charter school for each existing~~  
7 ~~start up charter school that has received a three year or longer~~  
8 ~~accreditation from the Western Association of Schools and~~  
9 ~~Colleges or a comparable accreditation authority as determined~~  
10 ~~by the panel, or for each start up charter school whose charter~~  
11 ~~is revoked. The total number of conversion charter schools~~  
12 ~~authorized by the panel shall not exceed twenty five."~~]

13 SECTION 6. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

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**Report Title:**

Charter Schools; Repeal Cap; Funding; Reauthorization

**Description:**

Requires the charter school review panel (CSRP) to determine a clear process with rigorous criteria for charter schools to be reauthorized. Requires the CSRP to reauthorize a charter school no later than three years following the initial issue of the charter, and every five years thereafter. Requires the charter school administrative office (CSAO) to withhold funds for its operational expenses, the total amount of which shall be determined by the CSRP, not exceed two per cent of the total charter school general fund appropriation. Requires the CSAO to report annually to the CSRP individual and aggregate operational and instructional expenditures of charter schools. Requires per-pupil allocation checks paid by the CSAO to individual charter schools to be co-signed by the executive director of the CSAO and an agent of the CSRP. Repeals the cap on the number of start-up and conversion charter schools.

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