



GOV. MSG. NO. 1233

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 15, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

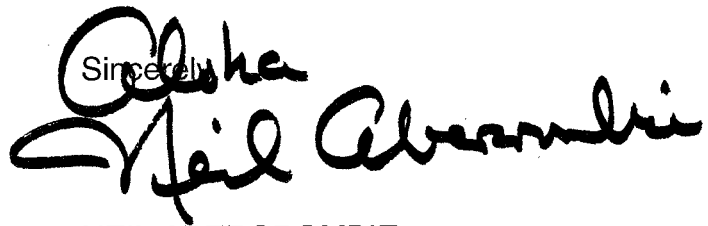
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 15, 2011, the following bill was signed into law:

SB1174 SD2 HD1 CD1

RELATING TO CHARTER SCHOOLS
Act 130 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor.

on JUN 15 2011

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 130
S.B. NO. 1174
S.D. 2
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 PART I

2 SECTION 1. The legislature finds that during the 2010
3 regular session, the legislature adopted Senate Concurrent
4 Resolution No. 108, S.D. 2, requesting the convening of a task
5 force to establish a consistent funding formula, process, or
6 both, by which equitable funding to charter schools could be
7 determined. Facilities funding for charter schools is a
8 critically important issue, but the legislature recognizes that
9 the establishment of a needs-based facilities funding formula is
10 a work in progress.

11 The legislature further finds that as charter schools
12 continue to become a visible component of the education system
13 in Hawaii, it is imperative to ensure that charter schools
14 function in an efficient and cost-effective manner.

15 The purpose of this Act, therefore, is to:

- 16 (1) Require the Charter School Administrative Office to
17 include with the budget and capital improvement
18 projects request, a detailed explanation of the



- 1 formula used for needs-based facilities funding
2 requests and a funding request breakdown by school;
- 3 (2) Permit charter schools to appeal a denial of
4 reauthorization by the charter school review panel to
5 the board of education;
- 6 (3) Require charter schools and their local school boards
7 to develop internal policies and procedures consistent
8 with ethical standards of conduct;
- 9 (4) Change the frequency of each charter school's
10 evaluation to every six years from every five years
11 after the initial evaluation; and
- 12 (5) Establish a task force on charter school governance,
13 accountability, and authority to provide clarity to
14 the relationships, responsibilities, and lines of
15 accountability and authority among stakeholders of the
16 charter school system.

17 SECTION 2. Section 302B-8, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The executive director, under the direction of the
20 panel and in consultation with the charter schools, shall be
21 responsible for the internal organization, operation, and
22 management of the charter school system, including:

- 1 (1) Preparing and executing the budget and the capital
2 improvement projects request for the charter schools,
3 including submission of the all means of finance
4 budget request that reflects all anticipated
5 expenditures to the panel, the board, the governor,
6 and the legislature; provided that, in preparing the
7 budget request with regard to needs-based facilities
8 funding, the executive director shall ensure that, as
9 a budget item separate from other operating costs, the
10 request [~~provides:~~
- 11 ~~(A) Funding for projected enrollment for the next~~
12 ~~school year for each charter school;~~
- 13 ~~(B) A calculation showing the per pupil funding based~~
14 ~~on the department of budget and finance's debt~~
15 ~~service appropriation for the department of~~
16 ~~education divided by the department of~~
17 ~~education's actual enrollment that school year;~~
18 and
- 19 ~~(C) That no less than seventy per cent of the amount~~
20 ~~appropriated shall be allocated by the office to~~
21 ~~start up charter schools on a per pupil basis;~~
22 provided that the funds remaining shall be



- 1 ~~allocated to charter schools with facilities~~
2 ~~needs as recommended by the office and approved~~
3 ~~by the panel,]~~
- 4 is accompanied by a detailed explanation of the
5 formula used and a funding request breakdown by
6 school;
- 7 (2) Allocating annual appropriations to the charter
8 schools and distribution of federal funds to charter
9 schools;
- 10 (3) Complying with applicable state laws related to the
11 administration of the charter schools;
- 12 (4) Preparing contracts between the charter schools and
13 the department for centralized services to be provided
14 by the department;
- 15 (5) Preparing contracts between the charter schools and
16 other state agencies for financial or personnel
17 services to be provided by the agencies to the charter
18 schools;
- 19 (6) Providing independent analysis and recommendations on
20 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 **PART II**

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

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

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

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

19 (3) Review, approve, or deny significant amendments to
20 detailed implementation plans to maximize the school's
21 financial and academic success, long-term
22 organizational viability, and accountability. Charter



1 schools that are denied a significant amendment to
2 their detailed implementation plan may appeal to the
3 board for a final decision pursuant to section 302B-
4 3.5;

5 (4) Pursuant to section 302B-3.6, compile and submit
6 prioritized lists of charter schools to the department
7 and enter into necessary agreements with the
8 department to authorize charter schools to use and
9 occupy vacant public school facilities or portions of
10 school facilities;

11 (5) Adopt reporting requirements for charter schools;

12 (6) Review annual self-evaluation reports from charter
13 schools and take appropriate action;

14 (7) Adopt a clear process and rigorous organizational and
15 educational criteria, including student achievement as
16 a significant factor, for the authorization and
17 reauthorization of school charters;

18 (8) Evaluate each school charter, for the purpose of
19 determining reauthorization, no later than four years
20 following the initial issue of a charter and every six
21 years thereafter; provided that charter schools that



- 1 are denied reauthorization may appeal to the board for
2 a final decision pursuant to section 302B-3.5;
- 3 (9) Evaluate any aspect of a charter school that the panel
4 may have concerns with and take appropriate action,
5 which may include special monitoring, temporary
6 withholding of an allocation for noncompliance issues,
7 probation, or charter revocation; provided that
8 charter schools that have their charter revoked may
9 appeal to the board for a final decision pursuant to
10 section 302B-3.5;
- 11 (10) Periodically adopt improvements in the panel's
12 monitoring and oversight of charter schools;
- 13 (11) Periodically adopt improvements in the office's
14 support of charter schools and management of the
15 charter school system;
- 16 (12) Review, modify, and approve charter schools' all means
17 of finance budget, based upon criteria and an approval
18 process established by the panel;
- 19 (13) Survey all charter school facilities prior to, and in
20 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; [and]

13 (14) Evaluate and investigate charter schools when concerns
14 arise that necessitate the resolution or assistance
15 with the resolution of legal, fiscal, health, safety,
16 and other serious issues[-]; and

17 (15) Ensure that local school boards are fulfilling their
18 oversight responsibilities pursuant to section
19 302B-7."

20 SECTION 4. Section 302B-3.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [†]§302B-3.5[†] Appeals; charter school applications,
2 reauthorizations, revocations, or detailed implementation plan
3 amendments. The board shall have the power to decide appeals
4 from decisions of the panel to deny the approval of a charter
5 school application, deny reauthorization of a charter school,
6 revoke a charter school's charter, or deny the approval of an
7 amendment to a charter school's detailed implementation plan.
8 An appeal shall be filed with the board within twenty-one
9 calendar days of the receipt of the notification of denial or
10 revocation. Only a party whose charter school application has
11 been denied, whose reauthorization has been denied, whose
12 charter has been revoked, or whose amendment to a detailed
13 implementation plan has been denied may initiate an appeal under
14 this section for cause. The board shall review an appeal and
15 issue a final decision within sixty calendar days of the filing
16 of the appeal. The board may adopt applicable rules and
17 procedures pursuant to chapter 91 for implementing the appeals
18 process."

19 SECTION 5. Section 302B-7, Hawaii Revised Statutes, is
20 amended as follows:

21 "§302B-7 Charter school local school boards; powers and
22 duties. (a) All local school boards, with the exception of



1 those of conversion charter schools that are managed and
2 operated by a nonprofit organization pursuant to section
3 302B-6(e), shall be composed of, at a minimum, one
4 representative from each of the following participant groups:

- 5 (1) Principals;
- 6 (2) Instructional staff members selected by the school
7 instructional staff;
- 8 (3) Support staff selected by the support staff of the
9 school;
- 10 (4) Parents of students attending the school selected by
11 the parents of the school;
- 12 (5) Student body representatives selected by the students
13 of the school; and
- 14 (6) The community at large.

15 (b) No chief executive officer, chief administrative
16 officer, executive director, or otherwise designated head of a
17 school may serve as the chair of the local school board.

18 (c) The local school board shall be the autonomous
19 governing body of its charter school and shall have oversight
20 over and be responsible for the financial and academic viability
21 of the charter school, implementation of the charter, and the
22 independent authority to determine the organization and



1 management of the school, the curriculum, virtual education, and
2 compliance with applicable federal and state laws. The local
3 school board shall have the power to negotiate supplemental
4 collective bargaining agreements with the exclusive
5 representatives of their employees.

6 (d) Local school boards shall be exempt from chapter 103D,
7 but shall develop internal policies and procedures for the
8 procurement of goods, services, and construction, consistent
9 with the goals of public accountability and public procurement
10 practices. Charter schools are encouraged to use the provisions
11 of chapter 103D wherever possible; provided that the use of one
12 or more provisions of chapter 103D shall not constitute a waiver
13 of the exemption from chapter 103D and shall not subject the
14 charter school to any other provision of chapter 103D.

15 (e) Charter schools and their local school boards shall be
16 exempt from the requirements of chapters 91 and 92. The local
17 school boards shall:

18 (1) Make available the notices and agendas of public
19 meetings:

20 (A) At a publicly accessible area in the local school
21 board's office or the charter school



1 administrative office so as to be available for
2 review during regular business hours; and

3 (B) On the local school board's or charter school's
4 internet website and the charter school
5 administrative office's internet website not less
6 than six calendar days prior to the public
7 meeting, unless a waiver is granted by the
8 executive director in the case of an emergency;
9 and

10 (2) Make available the minutes from public meetings on a
11 timely basis [~~in-~~] and maintain a list of the current
12 names and contact information of the local school
13 board's members and officers:

14 (A) [~~The~~] In the local school board's office or the
15 charter school administrative office so as to be
16 available for review during regular business
17 hours; and

18 (B) On the local school board's or charter school's
19 internet website[~~-~~] and the charter school
20 administrative office's internet website.



1 (f) Charter schools and their local school boards shall
2 develop internal policies and procedures consistent with ethical
3 standards of conduct, pursuant to chapter 84.

4 [~~f~~] (g) The State shall afford the local school board of
5 any charter school the same protections as the State affords the
6 board."

7 SECTION 6. Section 302B-14, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The panel shall conduct a multi-year evaluation of
10 each charter school on its fourth anniversary year and every
11 [~~five~~] six years thereafter. The panel may from time to time
12 establish a schedule to stagger the multi-year evaluations."

13 SECTION 7. (a) There is established within the charter
14 school administrative office for administrative purposes only, a
15 task force on charter school governance, accountability, and
16 authority. The purpose of the task force shall be to provide
17 clarity to the relationships, responsibilities, and lines of
18 accountability and authority among stakeholders of the charter
19 school system.

20 (b) The task force shall consist of the following members:

21 (1) The chair of the senate committee on education, or the
22 chair's designee;



- 1 (2) The chair of the house of representatives committee on
2 education, or the chair's designee;
- 3 (3) A representative from the office of the governor;
- 4 (4) The state ethics commissioner, or the commissioner's
5 designee;
- 6 (5) A member of the board of education;
- 7 (6) The superintendent of education, or the
8 superintendent's designee;
- 9 (7) The executive director of the charter school
10 administrative office, or the executive director's
11 designee;
- 12 (8) The chair of the charter school review panel, or the
13 chair's designee;
- 14 (9) A representative from Kamehameha Schools;
- 15 (10) A representative from the Ho'okako'o Corporation;
- 16 (11) The executive director of the Hawaii Charter Schools
17 Network, or the executive director's designee; and
- 18 (12) A representative from the Hawaii Charter Schools
19 Network.
- 20 (c) The chair of the senate committee on education and the
21 chair of the house of representatives committee on education, or
22 their designees, shall serve as co-chairs of the task force.



1 (d) The task force shall:

2 (1) Develop legislation or administrative rules that
3 clearly and definitively designate the governance
4 structure and authority between and among key charter
5 school organizations and the department of education,
6 the board of education, and the office of the
7 governor;

8 (2) Identify how the governance structure connects and
9 relates to the state education agency and local
10 education agency;

11 (3) Identify oversight and monitoring responsibilities of
12 the charter school review panel, the charter school
13 administrative office, and the local school boards and
14 develop a process for enforcement; and

15 (4) Discuss funding-related issues, including but not
16 limited to appropriate funding levels for the charter
17 school administrative office.

18 (e) The charter school administrative office shall provide
19 administrative support, if necessary, to the task force.

20 (f) The task force shall submit a report of its findings
21 and recommendations, including any proposed legislation, to the



1 legislature no later than twenty days prior to the convening of
2 the regular session of 2012.

3 **PART III**

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

6 SECTION 9. This Act shall take effect upon its approval.

APPROVED this 15 day of JUN, 2011



GOVERNOR OF THE STATE OF HAWAII